



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

H.C.P (MD) No.177 of 2017

WEB COPY

Petchimuthu @ Payasam

...Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government
Home, Prohibition and Excise Department,
Fort St. George, Chennai.

2.The District Collector and District Magistrate
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison
Central Prison, Palayamkottai
Tirunelveli District

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in M.H.S. confdl No.05/2017 dated 20/01/2017 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Petchimuthu alias Payassam S/o. Duraipandi Thevar aged about 40 years now detained at Central Prison Palayamkottai before this Court and set him at liberty

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.C.Mayilvahana Rajendran, A.P.P.

O R D E R

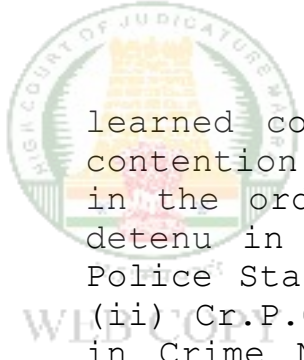
[Order of the Court was made by M.V.MURALIDARAN, J.]

The petitioner is the detenu. The detenu has been detained by the 2nd respondent by order dated 20.01.2017, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Though many grounds have been raised in the petition,



learned counsel appearing for the petitioner has restricted his contention by contending that the detaining authority had stated, in the order of detention that in a case registered against the detenu in Crime No.66/2016 on the file of the Tirunelveli Taluk Police Station, statutory bail had been granted under Section 167(ii) Cr.P.C. Therefore, it cannot be said that in the ground case in Crime No.4/2017 on the file of the Tirunelveli Taluk Police Station, there is a real possibility of the detenu coming out on bail. Thus, it is a clear non application of mind on the part of the detaining authority in passing the order of detention.

4.The learned Additional Public Prosecutor on behalf of the respondents would refute the submissions made by the learned counsel for the petitioner.

5.It is noted from the records available that the detaining authority, while passing the detention order, had mentioned in the detention order that in a case registered in Crime No.66/2016, the detenu was released on bail, in Cr.M.P.No.2818/2016 by the Judicial Magistrate Court, NO.III, Tirunelveli. However, on a perusal of the records available, it had been found that in Crime No.66/2016, statutory bail had been granted under Section 167(ii) Cr.P.C. Therefore, it is clear that there is no real possibility of the detenu coming out on bail, in the ground case, in Crime No.4/2017. In such circumstances, we find that there is non application of mind on the part of the detaining authority, in passing the detention order. Therefore, we are inclined to set aside the detention order.

6. In the result, the Detention Order, passed by the 2nd respondent, in his proceedings in MHS Confdl. No.05/2017 dated 20.01.2017 is quashed. The detenu, namely, Petchimuthu @ Payasam, son of Duraipandi, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-
Assistant Registrar(CO)

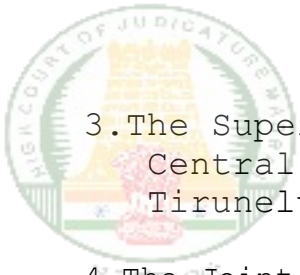
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Sub Assistant Registrar

To

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai.

2.The District Collector and District Magistrate
Tirunelveli District, Tirunelveli.



3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli District.

4.The Joint Secretary to Government of Tamil Nadu,
Public (Law & Order) Department,
Fort St.George, Chennai-9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RR

JS/GT/SAR.1/7.6.2017/3P-6C

ORDER MADE IN
H.C.P (MD) No.177 of 2017
Dated:23.05.2017