



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.05.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**  
**and**  
**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

H.C.P. (MD) No.212 of 2017

Murugeshkumar alias Rajkumar  
alias Mageshkumar alias Kuruchikumar ... Petitioner

**Vs.**

1. State of Tamil Nadu,  
Rep by the Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort. St.George,  
Chennai-600 009.
2. The District Collector and District Magistrate,  
Tirunelveli District,  
Tirunelveli.
3. The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli.

... Respondents

**PRAYER:** The Habeas Corpus petition is filed under Article 226 of the Constitution of India, to issue Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in M.H.S.Confdl No.09/2017 dated 25.01.2017 on the file of the 2<sup>nd</sup> respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Murugeshkumar alias Rajkumar alias Mageshkumar alias Kuruchikumar, S/o.Ganesan, aged about 29 years, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

|                 |                                                              |
|-----------------|--------------------------------------------------------------|
| For Petitioner  | : Mr.N.Pragalathan                                           |
| For Respondents | : Mr.C.Mayilvahana Rajendran<br>Additional Public Prosecutor |

**ORDER**

**(Order of this Court was made by M.V.MURALIDARAN ,J.)**

The petitioner is the detenu namely, Murugeshkumar alias Rajkumar alias Mageshkumar alias Kuruchikumar. The detenu has been detained by the 2<sup>nd</sup> respondent by order in M.H.S.Confdl.No.09/2017, dated 25.01.2017, holding the detenu 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.

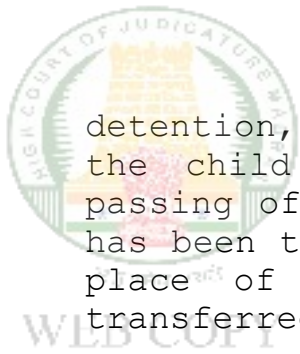
2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3.Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that the detention order is liable to be vitiated on the ground of violation of Article 22 (1) of the Constitution of India, inasmuch as communication in respect of arrest of the detenu in the 4<sup>th</sup> adverse case was given to the jail authorities, viz., Superintendent, Central Prison, Palayamkottai and therefore, it will not serve the purpose for which the arrest communication is to be made. He would also contend that as per the dictum laid down by the Hon'ble Supreme Court in **A.K.Roy vs. Union of India and another (AIR 1982 SC 710 (1))**, there must be a communication to the relatives of the person arrested to enable them to take steps to file bail application and if it is communicated to the prison authorities, the entire object will be defeated and the constitutional mandate will not be achieved.

4.However, learned Additional Public Prosecutor would submit that since the detenu was in prison, the arrest intimation was served through the Superintendent of the Prison and therefore, there is no violation of the constitutional requirement and that will serve the purpose and thereby the detenu will know about his arrest.

5.We have heard the learned counsel on either side and perused the material documents available on record.

6.In the case of in **A.K.Roy vs. Union of India and another (AIR 1982 SC 710(1))** and **D.K.Basu vs. State of West Bengal (1997) 1 SCC 416**, the Hon'ble Supreme Court has held that immediately after a person is taken in custody in pursuance of an order of



detention, the members of his household, preferably the parent, the child or the spouse, must be informed in writing of the passing of the order of detention and of the fact that the detenu has been taken in custody. Intimation must also be given as to the place of detention including the place where the detenu is transferred from time to time.

7. In view of the above, we are of the considered opinion that there is a violation of constitutional requirement in this case also, as the intimation of arrest of the detenu in respect of Crime No.219 of 2016, fourth adverse case, has been given only to the Superintendent of Prison, Central Prison, Palayamkottai, Tirunelveli and there is no communication either to the detenu or to her relatives, thereby defeating the constitutional requirement.

8. In the result, the Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl. No.09/2017, dated 25.01.2017, is quashed. The detenu, namely, Murugeshkumar alias Rajkumar alias Mageshkumar alias Kuruchikumar, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

9. In the upshot, we allow the Habeas Corpus Petition.

Sd/-  
Vacation Officer

/True Copy/

Sub Assistant Registrar

**To**

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort. St. George,  
Chennai-600 009.
2. The District Collector and District Magistrate,  
Tirunelveli District,  
Tirunelveli.
3. The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli.



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

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

NS/RR

TE/RSK/SAR-I : 02/06/2017 : 4P/6C

H.C.P. (MD) No.212 OF 2017  
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