



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.286 of 2017

Ponnalagu

... Petitioner

-vs-

1.The State of Tamil Nadu,
rep. by The Principal Secretary to Government,
Home, Prohibition and Excise Department (XVI),
Fort St. George,
Chennai - 600 009.

2.The District Magistrate and District Collector,
O/o.The District Magistrate and
District Collector,
Pudukottai District,
Pudukottai.

3.The Superintendent
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in connection with the detention order passed in P.D.No.07/2017 dated 08.02.2017 on the file of the second respondent herein and quash the same and direct the Respondents to produce the body or person of the petitioner's husband namely Sengan, S/o.Adaikkan, aged about 49 years, who is detained in Central Prison, Tiruchirappalli before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.G.Arun Kumar

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

**O R D E R**

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

The petitioner is the wife of the detenu, namely, Sengan, son of Adaikkan, Male, aged about 49 years. The detenu has been detained by the second respondent by his order in P.D.O.No.07/2017, dated 08.02.2017, 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 appearing 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 appearing for the petitioner, confines his argument only in respect of non-application of mind on the part of the detaining authority in passing the order of detention.

4. The learned counsel appearing for the petitioner would submit that the detention order has been passed on the ground that though the petitioner is in judicial custody from the year 2016 onwards, his relatives are taking steps to release him on bail on filing the bail application. He further submitted that there is a delay of 50 days from the date of representation made on 22.02.2017.

5. Per contra, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

6. In respect of the delay, the respondents have not seriously denied on the ground that the petitioner has made a representation on 22.02.2017, has been accepted though no date of reply has been given, the detention order has been passed as narrated above on the premise that the relatives of the detenu is taking steps. The above submission is bereft of material particulars. The name and the relationship of the person, who is taking steps to file the bail application, has not been indicated. Thus, we are of the view that there is a non-application of mind.

7. Considering the submissions made on both sides, we are of the view that there is non-application of mind on the part of the detaining authority in passing the order. In such view of the matter, the impugned detention order is liable to be quashed.



8. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.O.No.07/2017, dated 08.02.2017, passed by the second respondent is set aside. The detenu, namely, Sengan, son of Adaikkan, aged about 49 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To:

1. The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department (XVI),
Fort St. George, Chennai - 600 009.
2. The District Magistrate and District Collector,
O/o.The District Magistrate and
District Collector,
Pudukottai District, Pudukottai.
3. The Superintendent
Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary to Government Of Tamil Nadu,
Public(L & O),
Fort Saint George, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.K.G.Arun kumar , Advocate in SR.No. 64049

am

AE/MR KKR/SAR1/17.07.2017/3P/7C

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