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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P (MD) No.307 of 2017

Devi : Petitione

Vs.

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

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent,
Central Prison,
Madurai.

4.The Inspector of Police,
D-1, Tallakulam Police Station,
Madurai City.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the 2nd respondent in Detention Order No.08/BCDFGISSV/2017, dated 27.01.2017 and quash the same and direct the respondents to produce the body or person of the detenu, Markandan @ Markandeyan, aged 26 years, son of Marimuthu, before this Court and set him at liberty, now detained at Central Prison, Palayamkottai.

For Petitioner : Mr.S.Mahendrapathy

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 mother of the detenu - Markandan alias Markandeyan, aged about 26 years. The detenu has been detained by the second respondent by his order in Detention Order No.08/BDFGISSSV/2017, dated 27.01.2017, 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.

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3. The learned counsel for the petitioner would submit that there is non application of mind by the Detaining Authority while passing the detention order. In the similar case relied upon by the Detaining Authority for coming to the subjective satisfaction, the accused therein was not involved in previous cases. Admittedly, in the case on hand, the detenu was said to be involved in more than case, which is a ground case.

4. Considering the submissions of the learned counsel for the petitioner, this Court is of the view that there is non application of mind by the Detaining Authority while passing the impugned order.

5. In the result, the Detention Order No.08/BCDFGISSV/2017, passed by the second respondent, in his proceedings dated 27.01.2017, is quashed. The detenu, namely, Markandan @ Markandeyan, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

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

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government
Home, Prohibition and Excise Department,
Fort.St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Madurai City,
Madurai.
3. The Superintendent of Prison,
Central Prison,
Madurai.
4. The Inspector of Police,
D-1, Tallakulam Police Station,
Madurai City.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.MAHENDRAPATHI Advocate in SR. No.63843

JIKR

<https://hcservicesrecords.gov.in/AdServices> JS/MP/KKP/SAP-2/14.7.2017/2P-7C

ORDER MADE IN

H.C.P(MD) No.307 of 2017

Dated: 04.07.2017