



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.1154 of 2016

Muthuvel : Petitioner

Vs.

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
 2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector ,
Dindigul District, Dindigul.
 3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- : Respondents

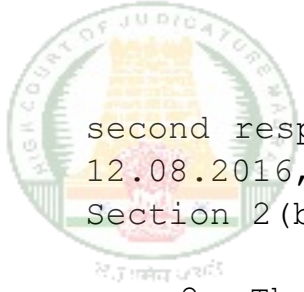
PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the respondent No.2 in Detention Order No.20/2016, dated 12.08.2016 and quash the same and direct the respondents to produce the detenu by name Muthuvel, Son of Murugesan @ Ramasamy, aged about 32 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.SUBBIAH, J**]

<https://hcservices.courts.gov.in/hcservices> The petitioner is the detenu - Muthuvel, Son of Murugesan @ Ramasamy, aged about 32 years. The detenu has been detained by the



second respondent by his order in Detention Order No.20/2016, dated 12.08.2016, holding him to be a "Boot-Legger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982.

2. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the Detaining Authority, while arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, in paragraph No.5, has stated that the detenu is in remand in connection with the case in Crime No.513 of 2016 under Sections 4(1)(aaa) 4(1-A) of Tamil Nadu Prohibition Act and Sections 5 and 6 of Tamil Nadu Rectified Spirit Rules, 2000. Hence, the father of the detenu filed a bail petition before the Court of Judicial Magistrate No.II, Dindigul, vide Cr.M.P.No.2796 of 2016 and the same was dismissed on 27.06.2016. Again, he filed a bail petition before the Court of Principal District and Sessions Judge, Dindigul, vide Cr.M.P.No.1538 of 2016 and the same was also dismissed on 11.07.2016. Thereafter, he filed a bail petition before this Court vide CrI.O.P.(MD)No.12698 of 2016 and the same was also dismissed on 25.07.2016. After recording the dismissal of the bail petition by this Court, in the very same paragraph, the Detaining Authority has stated that there is a real possibility of the detenu coming out on bail in the above said case before the Higher Court, when there is no bail petition pending.

3. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

4. A perusal of the detention order as well as the grounds of detention would go to show that having adverted to the dismissal of the bail applications filed before various Courts, the Detaining Authority, contrary to the earlier recital regarding the dismissal of the bail applications, proceeded further to observe that there was real possibility of the detenu coming out on bail before the Higher Court, when there is no bail application pending, which exhibited non-application of his mind and mechanical signing of the order of detention. Hence, on the ground of non-application of mind, the subjective satisfaction expressed by the Detaining Authority is vitiated. On that ground alone, the order of detention is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order No.20/2016, dated 12.08.2016, is



quashed. The detenu, namely Muthuvel, Son of Murugesan @ Ramasamy, aged about 32 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

WEB COPY

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Dindigul District, Dindigul.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. Joint Secretary to Government,
Public (Law & Order),
Fort Saint George,
Chennai-9.

Order made in
H.C.P. (MD) No.1154 of 2016
Dated: 05.01.2017

SML

MK-SU-MMS/30.1.2017/3p-6c