



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM
AND

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

H.C.P(MD) No.1317 of 2016

Balamurugan

: Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort. St. George, Secretariat,
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.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the second respondent in Detention Order No.27/2016, dated 19.09.2016 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Balamurugan, son of Singakutty @ Chinnakalai, aged about 39 years, now detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr. R. Alagumani

For Respondents : Mr. C. Ramesh

Additional Public Prosecutor.

O R D E R

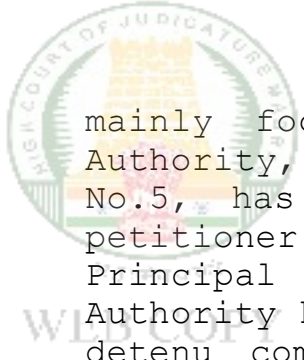
[Order of the Court was made by **T.S. SIVAGNANAM, J.**]

The petitioner is the detenu - Balamurugan, son of Singakutty @ Chinnakali, aged about 39 years. The detenu has been detained by the second respondent, by his order in Detention Order No.27/2016, dated 19.09.2016, 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. 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 Detaining Authority, while arriving at subjective satisfaction, in Paragraph No.5, has stated that the bail application filed by the petitioner in Cr.M.P.No.2138 of 2016 is pending before the Principal Sessions Judge, Dindigul. However, the Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, which, according to the learned counsel for the petitioner, shows total non-application of mind on the part of the Detaining Authority, which vitiates the order of detention.

4. We have considered the above submissions.

5. An identical issue was considered by the Hon'ble Division Bench of this Court in **T.Chitra Vs. State of Tamil Nadu, reported in 2014 (2) MLJ Cr1 72** and the order of detention was set aside on the ground of non-application of mind. Hence, following the said order, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.27/2016, dated 19.09.2016, is quashed. The detenu, namely, Balamurugan, son of Singakutty @ Chinnakali, 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 (CS-III)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
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.The Joint Secretary to Government,
Public (Law & Order), Fort.St.George, Chennai - 9.

NB

PSM/SV-MMS/04.04.2017/2P/6C

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ORDER MADE IN
H.C.P (MD) No.1317 of 2016
Dated:24.03.2017