



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM
AND

THE HONOURABLE MR. JUSTICE P. VELMURUGAN
H.C.P. (MD). No. 1474 of 2016

Chandrasahana

: 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,
Karur District, Karur.
3. The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli District.

: Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India calling for the entire records, connected with the detention order of the Respondent No.2 in Cr.M.P.No.10/2016, dated 21.09.2016 and quash the same and direct the Respondents to produce the body or person of the detenu by name Praveen @ Seenu, son of Chandrasahana, aged about 18 (detaining authority mentioned as 24 years) now detained at Tiruchirappalli 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**]

This habeas corpus petition has been filed by the father of the detenu, challenging the order of the detention, dated 21.09.2016. Though several points have been raised in the petition, the main contention advanced by the learned counsel for the petitioner is that the detenu filed bail application in the ground case and the same was pending at the time of passing the detention order, but the detaining authority mentioned in paragraph 5 of the grounds of detention that there is a real possibility of the detenu coming out on bail by filing bail application before the appropriate Court. It is further contended that there is no necessity to file bail



application, when the application is pending before the Court for the same case.

2. We have heard the learned Additional Public Prosecutor on the above submissions.

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3. The very same issue was considered earlier by this Court in the case of **Arunachalam Vs. State** reported in **(2006) 2 MLJ (Cr1) 1188**, wherein this Court held that when the bail application filed is pending in Court, the detaining authority in arriving at a conclusion that there is imminent possibility of the detenu in coming out on bail by filing bail application and in similar cases bails are granted by the concerned Courts or Higher Court, which amply shows his non-application of mind in passing detention order. On the above ground the detention order was quashed.

4. The respondents are not in a position to controvert this issue neither produce any decision contrary to the decision relied on by the learned counsel for the petitioner. Thus, we are satisfied that the impugned detention order is vitiated on the ground of non application of mind and accordingly, it is liable to be set aside.

5. In the result, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside and the detenu, namely Praveen @ Seenu is directed to set at liberty forthwith from the custody, unless he is required in some other case.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government 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,
Karur District, Karur.
3. The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli District.
4. The Joint Secretary to Government of TamilNadu,
Public (Law & Order),
Fort St. George, Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

JIKR

PSM/SV-MMS/19.04.2017/2P/6C