



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.02.2018

Coram :-

**THE HON'BLE DR.JUSTICE S.VIMALA**

**and**

**THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI**

Habeas Corpus Petition(MD) No.17 of 2018

K.Ravichandran

... Petitioner

-vs-

1.State represented by

The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.

2.The District Magistrate and District Collector  
Dindigul District,  
Dindigul.

3.The Inspector of Police,  
Dindigul Taluk Police Station, Dindigul

4.The Superintendent of Prison,  
Central Prison,  
Madurai.

... Respondents

Prayer: Writ petition under Article 226 of the Constitution of India is filed praying for issuance of a writ of Habeas Corpus, calling for the entire records pertaining to the order of detention passed by the 2<sup>nd</sup> respondent vide his order No.65/2017 dated 20.08.2017 and quash the same and consequently set the detenu namely, Sakthivel, S/o.Ravichandran, aged about 22 years, who is detained in Central Prison, Madurai, at liberty.

For petitioner : Mr.M.Vaikkam Karunanithi  
For respondents : Mr.C.Ramesh  
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by  
S.Vimala,J.,)

The petitioner is the father of the detenu, namely, Sakthivel, S/o.Ravichandran, male, aged 22 years. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under order of the 2<sup>nd</sup> respondent passed in Detention Order No.65/2017 dated 20.08.2017. The said order is under challenge in this petition.



2. Even though the learned counsel for the petitioner has raised several grounds to assail the order of detention, he has mainly focused his argument on the ground that in Paragraph No.4 of the detention order, the detaining authority states that the detaining authority is satisfied that the detenu Sakthivel has committed crimes continuously and also acting in a manner prejudicial for the maintenance of public order and as such, he is a Goonda as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

3. The learned counsel for the petitioner would submit that even according to the detaining authority, reference has been given to only one case in Crime No.306/2017 under Section 302 IPC and except that case, no other reference has been given and therefore, the contention that the petitioner has committed crime continuously as stated in the detention order cannot be true. In other words, the contention is that there is non application of mind on the part of the detaining authority. In support of his submission that the order passed without application of mind is liable to be set aside, learned counsel cited a judgment of this Court in the case of S.Sathiya vs. State (H.C.P.(MD) No. 466 of 2013) decided on 03.07.2013, wherein it has been held as under:

"6. On a careful scrutiny of the impugned order, it is seen that the detaining authority, taking into account the imminent possibility of petitioner being enlarged on bail and the likelihood of the same is prejudicial to the public order and health, has passed the impugned detention order. It is pertinent to note here that when the bail petition filed by the detenu is pending before the learned Special Judge for E.C.Act Cases, how the detaining authority has taken a decision to detain a person without applying his independent mind, which really shows the lethargic attitude on the part of detaining authority. Further, the failure on the part of detaining authority to consider the possibility or otherwise of the detenu being granted bail in adverse cases would also reflect non application of mind. Thus, for the reasons stated hereinabove, the impugned detention order cannot be sustained and is vitiated in law."

3.1. The learned counsel for the petitioner has also relied upon the order of this Court passed in the case of Karuppasamy vs. State and others [HCP (MD) No.1670 of 2017] decided on 21.12.2017 to substantiate his argument that the detention order is liable to be quashed, as the detenu herein stands on the same footing as that of the detenu in the quoted judgment dated 21.12.2017.

3.2. However, a perusal of the order dated 21.12.2017 would go to show that the said petition was allowed on the ground of five days delay in considering the representation of the detenu therein and no such occasion arises for consideration in the given case on



hand and therefore, the order (cited supra) is not applicable to the present case.

4. The learned Additional Public Prosecutor would contend that there is a compelling necessity to detain the petitioner in order to prevent him from indulging in such further activities in future, which are prejudicial to the maintenance of public order and public health.

5. A careful scrutiny of the detention order would unfold that the detaining authority, in a hurried manner, passed the detention order without verifying the actual cases pending against the detenu. Though there is only one Crime No.306 of 2017 duly mentioned in the order, it has been stated without adducing any proof that the detenu is in the habit of committing continuous crime, which is not true and therefore, inference can be drawn that except one case, no other case is pending against the detenu. Therefore, non application of mind is apparent on the face of record and we find that there are sufficient grounds to interfere with the impugned detention order and the same is liable to be quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order dated 20.08.2017 passed in Detention No.65/2017, by the second respondent, detaining the detenu, namely, Sakthivel, S/o.Ravichandran, male, aged 22 years, who is detained in the Central Prison, Madurai, is hereby quashed. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.
  - 2.The Joint Secretary to Government,  
Public (Law and Order) Department,  
Fort Saint George, Chennai-9
  - 3.The District Magistrate and District Collector  
Dindigul District, Dindigul.
  - 4.The Inspector of Police, Dindigul Taluk Police Station,  
Dindigul
  5. The Superintendent of Prison, Central Prison, Madurai.  
(In duplicate for communication to the detenu)
  - 6.The Additional Public Prosecutor  
Madurai Bench of Madras High Court , Madurai.
- +One cc to M/s.M.Vaikkam Karunanithi, Advocate, SR.no.49758

RR