



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **C.T.SELVAM**

AND

THE HONOURABLE MR.JUSTICE **A.M.BASHEER AHAMED**

H.C.P.[MD].No.191 of 2018

Saravanan @ Gunasekaran

: Petitioner

Vs.

1. The State of Tamil Nadu, rep by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai 9.
 2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
 3. The Superintendent,
Central Prison, Tiruchirappalli.
- : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records in detention order passed in C.O.C.No.05/2018, dated 07.02.2018, on the file of the second respondent herein and aside the same as illegal and direct the respondents to produce the petitioner, namely, Saravanan @ Gunasekaran, S/o.Selvaraj, Male, aged 25 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by **C.T.SELVAM, J.**]

The petitioner is the detenu - Saravanan @ Gunasekaran, S/o.Selvaraj, aged 25 years The detenu has been detained by the second respondent by the impugned Detention Order in C.O.C.No.05/2018, dated 07.02.2018, holding him to be a "Goonda",

as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. 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.4, has stated that the bail application filed by the petitioner in Cr.M.P.No.3685 of 2017 was dismissed by the learned District Sessions Judge, Nagapattinam. 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.

3. We have considered the above submissions.

4. An identical issue was considered by a 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 C.O.C.No.05/2018, dated 07.02.2018, is quashed. The detenu, namely, Saravanan @ Gunasekaran, S/o.Selvaraj, Male, aged 25 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

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

Sd/-

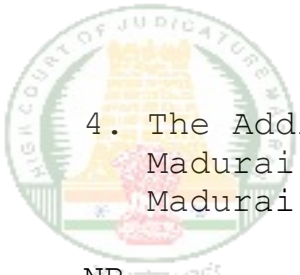
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai 9.
2. The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.
3. The Superintendent,
Central Prison, Tiruchirappalli.



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

NB

AE/SV MMS/SAR4/21.06.2018/3P/5C

ORDER MADE IN
H.C.P. [MD] .No.191 of 2018
24.04.2018