



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.275 of 2018

Shanmugam @ Shanmuganathan

... Petitioner

Vs.

1.The Additional Chief 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,
Pudukottai District,
Pudukkottai.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the respondent no.2 in P.D.O.No.04/2018 dated 02.02.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name Shanmugam @ Shanmuganathan, S/o Perumal, aged about 34 years, now detained in Trichy Central Prison before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan, APP

ORDER

(Order of the Court was made by C.T.SELVAM,J.)

The petitioner is the detenu - Shanmugam @ Shanmuganathan, S/o Perumal, aged about 34 years. The detenu has been detained by the second respondent by the impugned Detention Order P.D.O.No.04/2018 dated 02.02.2018, 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, learned counsel for petitioner would mainly focus his argument on the ground that the impugned order of detention suffers from non-application of mind. In passing the order of detention on 02.02.2018, the Detaining Authority has recorded the position that the bail application of the detenu in the ground case was dismissed on 25.01.2018. He has not stated that there was likelihood of the detenu being released on bail, 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 Detention Order No.P.D.O.No.04/2018, dated 02.02.2018, is quashed. The detenu, namely, Shanmugam @ Shanmuganathan, S/o Perumal, 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 Additional Chief 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,
Pudukottai District,
Pudukkottai.

3. The Superintendent of Prison,
<https://hcservices.ecourts.gov.in/hcservices/>
Trichy Central Prison,
Trichy.



4.The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George,
Chennai - 9.

WEB COPY

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

+ 1 cc TO Mr.R.Alagumani , Advocate in SR No. 62870

nbj

AE/SKN RSK/SAR1/02.07.2018/3P/7C

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