



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:09.04.2018
CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

H.C.P.[MD].No.276 of 2018

Durai : Petitioner

Vs.

1.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,
O/o. 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.12 of 2018, dated 22.02.2018, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner, namely, Durai S/o.Sambandam, male, aged 55 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

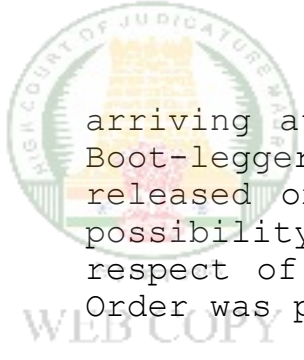
For Petitioner : Mr.K.A.S.Prabhu
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

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

The petitioner is the Durai - Jayabal, S/o.Sambandam, male, aged 51 years. The detenu has been detained by the second respondent by the impugned Detention Order in C.O.C.No.12 of 2018, dated 22.02.2018, holding him to be a "Boot-legger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982.

2. Though the detention order is sought to be assailed on several grounds, the learned counsel for the petitioner mainly relies on the contention that the Detaining Authority, while



arriving at the subjective satisfaction to detain the detenu as a Boot-legger, has mentioned about the possibility of the detenu being released on bail in the ground case, but, failed to consider the possibility or otherwise of the detenu being released on bail in respect of the second adverse case, which shows that the Detention Order was passed with total non-application of mind.

3. We find some force in the above said submission made by the learned counsel for the petitioner, because, non-mentioning of the relevant details to detain the detenu as Boot-legger under the provisions of Tamil Nadu Act 14 of 1982, would vitiate the order of detention. Therefore, on that ground, we are inclined to set aside the order of detention.

4. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in C.O.C.No.12 of 2018, dated 22.02.2018, is quashed. The detenu, namely, Durai S/o.Sambandam, male, aged 55 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-
Assistant Registrar (CO)

/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.
(in duplicate communicate to the detenue)
4. The Joint Secretary to Government
Public (Law & Order),
Fort.St.George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN
H.C.P. [MD].No.276 of 2018
03.04.2018