



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.299 of 2018

Selvam

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Theni District, Theni.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... 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 2nd respondent in detention order No.09/2018/C2 dated 23.02.2018 and quash the same and direct the respondents to produce the detenu by name Selvam son of Chelladurai, aged about 38 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

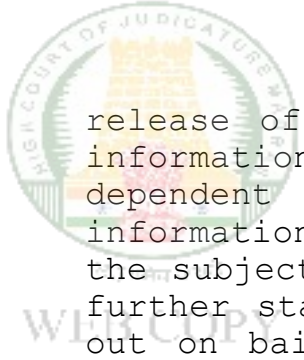
For Petitioner : Mr.R.Alagumani
For Respondents : Mr.V.Neelakandan,

ORDER

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

The petitioner is the detenu - Selvam, S/o. Chelladurai, aged about 38 years. The detenu has been detained by the second respondent by the impugned Detention Order No.09/2018/C3 dated 23.02.2018, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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
arriving at subjective satisfaction, in Paragraph No.5, has stated that Detaining Authority, however, has seen the possibility of



release of the detenu, seeking the same on the basis of secrete information. An order of detention must be patent and not be dependent on that which is latent as use it of the term secrete information, suffers erroneous application of mind, which affects the subjective satisfaction. 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 Detention Order No.09/2018/C3, dated 23.02.2018 is quashed. The detenu, namely, Selvam, son of Chelladurai, 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-I)

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu, Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Theni District, Theni.
 - 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
 - 4.The Joint Secretary to Government,
Public (Law and Order)
Fort St.George, Chennai -9.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1cc to Mr. R. Alagumani, Advocate, SR.No.62871.

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23.04.2018