



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.300 of 2018

Palpandi

: Petitioner

Vs.

1. The Principal Secretary to Government,
State of Tamilnadu,
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: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the respondent No.2 in Detention Order No.08/2018/C3, dated 22.02.2018 and quash the same and direct the respondents to produce the detenu by name Palpandi, son of Rajakaluvan, aged about 37 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

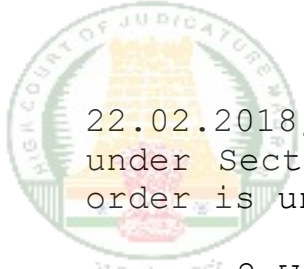
For Respondents : Mr.V.Neelakandan

Additional Public Prosecutor.

O R D E R

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

The petitioner is the detenu - Palpandi son of Rajakaluvan, aged about 37 years. The detenu has been detained by the second respondent by his order in Detention Order No.08/2018/C3 dated



22.02.2018, holding him to be a "Drug Offender", as contemplated under Section of 2(e) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though the detention order is sought to be assailed on several grounds, the learned counsel for the petitioner mainly relies on the contention that in the ground case, no bail application was filed, but, still the detaining authority expressed subjective satisfaction that there was a real possibility of the detenu coming out on bail in the ground case and the said subjective satisfaction is nothing but *ipse dixit* not supported by cogent materials.

4. In elaboration of the said contention, the learned counsel for the petitioner submits that the subjective satisfaction regarding the real possibility of the detenu coming out on bail in a case, wherein no bail application is pending, cannot be based on any other case in respect of other persons and that the very fact that no bail application is pending will negate the imminent possibility of the detenu coming out on bail, subject to an exception that a co-accused in the very same case placed under similar circumstances has been released on bail.

5. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

6. As rightly contended by the learned counsel appearing for the petitioner, the Detaining Authority referred to the fact that no bail application was filed or pending in the ground case, namely, Crime No.12/2018, registered on the file of Theni NIB CID. However, the Detaining Authority proceeded further to express a subjective satisfaction that there was real possibility of the detenu coming out on bail by filing a bail application, as the secret information received by him indicates that the detenu himself or his relatives may file bail petition before the Higher Court. Such subjective satisfaction arrived at by the Detaining Authority shows total non-application of mind. Thus, on this sole ground alone, the impugned detention order is liable to be set aside.

7. In the result, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.08/2018/C3 dated 22.02.2018, is quashed. The detenu, namely, Palpandi S/o. ~~Palpandi S/o. Palpandi S/o. Palpandi S/o.~~ is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.



8. 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,
State of Tamilnadu,
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 & order),
Fort St. George, Chennai -9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

NB

AE/SV/SAR1/14.06.2018/3P/6C

ORDER MADE IN
H.C.P (MD) No.300 of 2018
Dated: **24.04.2018**