



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:21.06.2018**

CORAM:

**THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and**

WEB COPY THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.328 of 2018

Kombaiah

... Petitioner

Vs.

1. The State of Tamil Nadu, represented by its
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,
Kokkirakulam, Palayamkottai,
Tirunelveli.

3. The Superintendent of Prison,
The Borstal School, District Jail,
Pudukottai.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the detenu Arumugam, aged 20 years son of Kombaiah, who is detained under Tamilnadu Act 14 of 1982 as Goonda at Borstal School, District Jail, Pudukottai, by the second respondent vide his order in M.H.S.Confdl.No.08/2018, dated 12.02.2018 on the file of the second respondent herein to produce the person or body of the detenu Arumugam, aged 20 years son of Kobaiah, before this Court and set him at liberty.

For Petitioner : Mr.R.Jim

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu - Arumugam, S/o.Kombaiah, aged about 20 years. The detenu has been detained by the second respondent by the impugned Detention Order in M.H.S.Confdl.No.08/2018, dated 12.02.2018, 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 Detaining Authority, while arriving at subjective satisfaction, in Paragraph No.6, has stated that there is real possibility for detenu coming out on bail in future by filing bail application as in similar case, bail was granted by the Court concerned, 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 in M.H.S.Confdl.No.08/2018, dated 12.02.2018, is quashed. The detenu, namely, Arumugam, S/o.Kombaiah, aged about 20 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(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,
O/o.The District Collector and District Magistrate,
Kokkirakulam, Palayamkottai,
Tirunelveli.
3. The Superintendent of Prison,
The Borstal School, District Jail,
Pudukottai.
4. The Joint Secretary to Government,
Department of Prison (Detention and Order),
Fort.St.George, Chennai - 9.



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

+1cc to Mr.R.Jim, Advocate Sr.No.69128

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VB/PN/SAR2/10.07.2018/3P/7C

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