



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2018

CORAM:

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

H.C.P.(MD)No.376 of 2018

Sekar @ Thaadi Sekar

... Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Kaniyakumari District,
Nagercoil.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for entire records connected with the detention order passed in P.D.No.18/2018 dated 09.03.2018 on the file of the 2nd respondent and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Sekar @ Thaadi Sekar, aged about 35 years, s/o Muthuswamy now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

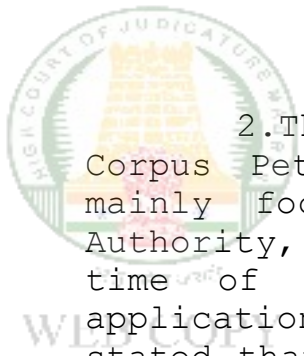
For Petitioner
For Respondents

: Mr.N.Pragalathan
: Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Sekar @ Thaadi Sekar, aged about 35 years. The detenu has been detained by the second respondent by the impugned Detention Order No.P.D.No.18/2018 dated 09.03.2018, 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, the learned counsel for the petitioner would mainly focus his argument on the ground that the Detaining Authority, while arriving at subjective satisfaction that at the time of passing detention order dated 09.03.2018, no bail application is pending. However, the Detaining Authority has stated that there is real possibility of the detenu coming out on bail by filing bail application, 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.18/2018, dated 09.03.2018, is quashed. The detenu, namely, Sekar @ Thaadi Sekar, S/o Muthuswamy, 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(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai 600 009.
2. The District Collector and District Magistrate,
Kaniyakumari District,
Nagercoil.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.



4. The Joint Secretary,
Public (Law and Order) Department,
Secretariat, Chennai - 600 009.

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

Nbj

AE/SKN RSK/SAR1/02.07.2018/3P/6C

H.C.P. (MD) No.376 of 2018
14.06.2018