

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 26.04.2018****CORAM :****THE HONOURABLE MR.JUSTICE C.T.SELVAM****And****THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED****H.C.P(MD)No.387 of 2018**

Annakamu

... Petitioner

vs.

1.The Principal Secretary to Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2.The District Collector and District Magistrate,
Tiruchirapalli,
Tiruchirapalli District.

3.The Superintendent of Police,
Central Prison,
Trichy.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Habeas Corpus, calling for the records in pursuant to the proceedings of the 2nd respondent in detention order in Cr.M.P.No.06/Goonda/2018 dated 22.02.2018 quash the same and consequently, direct the respondents to produce the detenu, namely, Naveenprabu, son of Chellamuthu, aged 23 years, who is now detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.M.Subash Babu

For Respondents : Mr.V.Neelakandan, APP

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

The petitioner is the mother of the detenu - Naveenprabu, son of Chellamuthu, aged about 23 years. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.53/2017, dated 28.12.2017, holding him to be a "Sand Offender", 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 that the impugned order of detention suffers from non-application of mind. In that, although in paragraph no.3 informs that on the arrest of detenu on 17.01.2018 his confession was recorded and an Aruval was seized, a copy of confession statement, allegedly recorded, had not been supplied in the paper book furnished to the detenu. As such an opportunity of making effective representation, against the order of detention, has been denied. Learned counsel also submits that in informing the likelihood of the detenu being released on bail in the ground case, 2nd respondent / detaining authority has failed to see that in very ground case, the bail petition of co-accused was dismissed. The Detaining Authority has considered, real possibility of detenu, being released on bail and has arrived at conclusion of real possibility of detenu to be released on bail, 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.Cr.M.P.No.53/2017, dated 28.12.2017, is quashed. The detenu, namely, Naveenprabu, son of Chellamuthu, 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(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2. The District Collector and District Magistrate,
<https://hcservices.ecourts.gov.in/hcservices/>
Tiruchirapalli,
Tiruchirapalli District.



3.The Superintendent of Police,
Central Prison,
Trichy.

4.The joint Secretary to Government of Tamil Nadu,
Public (Law & order), Fort St.George, Chennai-9.

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

MPK/NBJ

AE/SV MMS/SAR1/12.06.2018/3P/6C

**Order made in
H.C.P (MD) No.387 of 2018
26.04.2018**