



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.404 of 2018

SenthilKumar

... Petitioner

Vs.

1.State of Tamil Nadu,

The Principal Secretary to Government,
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,
Ariyalur District, Ariyalur.

3.The Superintendent,

Central Prison, Tiruchirappalli. ... 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 in detention order passed in Cr.M.P.No.09/2018 dated 15.03.2018 on the file of the 2nd respondent and set aside the same as illegal and direct the respondents to produce the petitioner namely, Senthilkumar, S/o Jeganathan, male, aged 38 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Senthilkumar, son of Jeganathan. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.09/2018 dated 15.03.2018 holding him to be a "Bootlegger", as contemplated under Section 2(b) 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.5, has stated that there is real possibility for detenu coming out on bail in



ground case in future 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 in Cr.M.P.No.09/2018 dated 15.03.2018, is quashed. The detenu, namely, Senthilkumar, son of Jeganathan, 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 (W)

/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,
Office of the District Collector and District Magistrate,
Ariyalur District, Ariyalur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George,
Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.404 of 2018
11.06.2018