



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.06.2018
CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

H.C.P (MD) No.440 of 2018

G.Rajakumar

: Petitioner

Vs.

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Virudhunagar District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

: 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 Cr.M.P.No.03/18, dated 20.03.2018 and quash the same and direct the respondents to produce the bod or person of the detenu by name Kalimuthu, S/o.Gurusamy, aged about 28 years, now confining at 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 brother of the detenu -Kalimuthu, S/o.Gurusamy, aged about 28 years. The detenu has been detained by the second respondent by his Detention Order in Cr.M.P.No.03/18, dated 20.03.2018, holding him to be a "Sexual Offender", as contemplated under Section of 2(ggg) Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

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 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, in Paragraph No.4, has stated that the bail application filed by the petitioner in Cr.M.P.No.756 of 2018 is pending before the Mahila Court, Srivilliputhur. However, the Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, 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.

4. We have considered the above submissions.

5. 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. Recently, this Court had an occasion to deal with a similar issue in H.C.P.[MD].No.190 of 2018, dated 24.04.2018, [Barani @ Baranidharan Vs. The Principal Secretary to Government].

6. Following the decisions, referred to above, the Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.03/18, dated 20.03.2018, is quashed. The detenu, namely, Kalimuthu, S/o.Gurusamy, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

7. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (Cr1.Side)

/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 Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Virudhunagar District.



3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

4.The Joint Secretary to Government,
Public (Law and Order),
Fort Saint George, Chennai-9.

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

+1CC to Mr.R.Alagumani Advocate in SR.N0.68533.

NB/SJI

DS/SKN-RSK/SAR-1 :02.07.2018: 3P/7C

ORDER MADE IN
H.C.P (MD) No.440 of 2018
13.06.2018