



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.435 of 2018

Raja @ Arumugaraja @ Kundumani

: Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

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

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

: 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 M.H.S.Confdl.No.20/18, dated 16.03.2018 and quash the same and direct the respondents to produce the detenu by name Raja @ Arumugaraja @ Kundumani, S/o.Jothimani, aged about 31 years, detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neela Kandan

Additional Public Prosecutor.

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

The petitioner is the detenu - Raja @ Arumugaraja @ Kundumani, S/o.Jothimani, aged about 31 years. The detenu has been detained by the second respondent by his Detention Order in M.H.S.Confdl. No.20/18, dated 16.03.2018, holding him to be a "Goonda", as contemplated under Section of 2(f) Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. Though the detention order is sought to be assailed on several grounds, the learned counsel for the petitioner mainly



relies on the contention that in the ground case, no bail application was filed, but, still the detaining authority expressed subjective satisfaction that there was a real possibility of the detenu coming out on bail in the ground case and the said subjective satisfaction is nothing but ipse dixit not supported by cogent materials.

3. In elaboration of the said contention, the learned counsel for the petitioner submits that the subjective satisfaction regarding the real possibility of the detenu coming out on bail in a case, wherein no bail application is pending, cannot be based on any other case in respect of other persons and that the very fact that no bail application is pending will negate the imminent possibility of the detenu coming out on bail, subject to an exception that a co-accused in the very same case placed under similar circumstances has been released on bail.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

5. As rightly contended by the learned counsel appearing for the petitioner, the Detaining Authority referred to the fact that no bail application was filed or pending in the ground case, namely, Crime No.94 of 2018, registered on the file of Tirunelveli Taluk Police Station, Tirunelveli. However, the Detaining Authority proceeded further to express a subjective satisfaction that there was real possibility of the detenu coming out on bail by filing a bail application. Such subjective satisfaction arrived at by the Detaining Authority shows total non-application of mind. Thus, on this sole ground alone, the impugned detention order is liable to be set aside.

6. In the result, the Detention Order, passed by the second respondent, in his proceedings in Detention Order in M.H.S.Confdl. No.20/18, dated 16.03.2018, is quashed. The detenu, namely, Raja @ Arumugaraja @ Kundumani, S/o.Jothimani, 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 (CO)

/True Copy/

Sub Assistant Registrar



To

1. The Principal Secretary to Government,
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Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
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.No.68532.

NB/SJI

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

ORDER MADE IN
H.C.P (MD) No.435 of 2018
13.06.2018