



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.562 of 2018

Theerthakumar

... Petitioner

Vs.

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

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

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

... 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 connected with the detention order of the second respondent in Cr.M.P.No.12/Goonda/2018 dated 10.04.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Theerthakumar, son of Narayanan, aged about 24 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

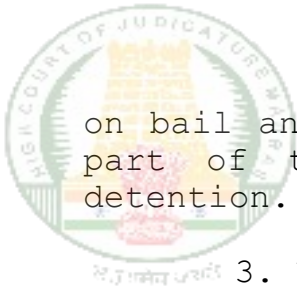
For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Theerthakumar, son of Narayanan. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.12/Goonda/2018 dated 10.04.2018, 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, learned counsel for petitioner would mainly focus on the ground that the Detaining Authority, in the absence of any bail application having been moved towards release of the detenu in the ground case, has informed the possibility of the detenu released



on bail and the same reflects 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.

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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.12/Goonda/2018, dated 10.04.2018, is quashed. The detenu, namely, Theerthakumar, son of Narayanan, 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 (T&P)

/True Copy/

Sub Assistant Registrar(SAR-II)

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The District Collector and District Magistrate,
Sivagangai District, Sivagangai.
3. The Superintendent of Prison,
Madurai Central Prison, Madurai District.
4. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort.St.George, Chennai - 9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.562 of 2018
29.06.2018

NBJ

ES/SKN/RSK/SAR 2/23.07.2018/2P/6C