



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2018

CORAM:

WEB COPY

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.577 of 2018

Moovendran ... Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep. by Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai 600 009.
- 2.The District Collector and District Magistrate,
Theni District,
Theni.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.

... Respondents

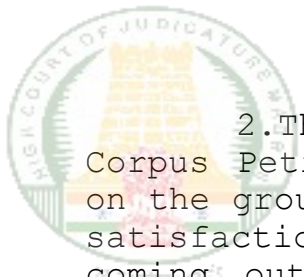
PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the second respondent in Detention order No.11/2018 dated 05.04.2018 and quash the same and direct the respondents to produce the person or body of the detenu, Anbalagan, S/o.Perumal Thevar, aged about 57 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner : Mr.S.Mahendrapathy
For Respondents : Mr.V.Neelakandan, APP

ORDER

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

Petitioner is the son of the detenu - Anbalagan, son of Perumal Thevar. Detenu has been detained by second respondent by impugned Detention Order in Detention order No.11/2018 dated 05.04.2018, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 Detaining Authority, while arriving at subjective satisfaction, has stated that there is real possibility for detenu coming out on bail and he has not supported such finding with particulars of similar case, in which, bail was granted, which, according to learned counsel for 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 Detention order No.11/2018 dated 05.04.2018, is quashed. The detenu, namely, Anbalagan, son of Perumal Thevar, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

5. In the result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar (CS-IV)

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,
Theni District, Theni.
3. The Superintendent of Prison,
Central Prison, Madurai.
4. The Inspector of Police,
Kadamalaikundu Police Station, Theni District.
5. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George, Chennai - 9.
6. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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