



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.629 of 2018

Mathalaimuthu @ Valakattai Thangam

... 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,
Dindigul District, Dindigul.

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

... Respondents

PRAYER: 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 respondent No.2 in Detention Order No.35/2018, dated 20.04.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Mathalaimuthu @ Valakattai Thangam, son of Antony, aged about 55 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,APP

ORDER

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

The petitioner, who is the detenu, namely, Mathalaimuthu @ Valakattai Thangam, son of Antony, aged about 55 years, challenges the impugned order of detention, dated 20.04.2018 in Detention Order No.35/2018, detaining the detenu as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Prevention of dangerous activities of Boot leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982).



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, has stated that there is real possibility of detenu coming out on bail in future in the ground case, by relying on an order of bail passed in keeping with Section 167(2) Cr.P.C., 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 No.35/2018, dated 20.04.2018, passed by the second respondent is set aside. The detenu, namely, Mathalaimuthu @ Valakattai Thangam, son of Antony, aged about 55 years, is directed to be released forthwith unless his detention is required in connection with any other case.

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

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

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,
Dindigul District, Dindigul.
3. The Superintendent of Prison,
Madurai Central Prison, Madurai.
4. The Joint Secretary to Government,
Public (Law and Order),
Secretariat, Government,
Chennai - 9.



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

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