



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

CORAM:

WEB COPY

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

H.C.P.(MD)No.732 of 2018

Rathinamma

... 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 Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
Theni District,  
Theni.

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 2nd respondent in Detention Order No.20/2018 dated 17.05.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name Raja, son of Pandinadar, aged about 38 years, now confining at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner  
For Respondents

: Mr.R.Alagumani  
: Mr.K.K.Ramakrishnan APP

**ORDER**

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

The petitioner is the mother of the detenu - Raja, son of Pandinadar. The detenu has been detained by the second respondent by the impugned Detention Order in 20/2018 dated 17.05.2018,



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, while arriving at subjective satisfaction, although no petition for bail was pending on behalf of the detenu as on the date of passing the detention order, has not even relying on bail in similar case towards justifying the order of detention. Again, without any supporting materials, the Detaining Authority has spoken to having received a secrete information, the detenu or his relative would move bail application. Both on the ground of non application of mind and wrongful arrival of subjective satisfaction, 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 20/2018 dated 17.05.2018, is quashed. The detenu, namely, Raja, son of Pandinadar, 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 (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

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 Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
The District,  
Theni.



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

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

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

NBJ

TE/KAK/SAR-4 : 27/08/2018 : 3P/6C

H.C.P. (MD) No.732 of 2018  
26.07.2018