



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **11.07.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **C.T.SELVAM**

AND

THE HONOURABLE MR.JUSTICE **A.M.BASHEER AHAMED**

H.C.P(MD)No.779 of 2018

Jegan

: 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 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 Detention Order No.44/2018, dated 30.05.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name, Jegan, S/o.Pandi, aged about 27 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

Additional Public Prosecutor.

O R D E R

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

The petitioner is the detenu - Jegan, S/o.Pandi, aged about 27 years. The detenu has been detained by the second respondent by his Detention Order No.44/2018, dated 30.05.2018, holding him to be a "Sand Offender", as contemplated under Section of 2(gg) Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.



3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that the Detaining Authority, while arriving at subjective satisfaction, in Paragraph No..5, has stated that the bail application filed by the petitioner in Cr.M.P.No.3212 of 2018 was dismissed, on 22.05.2018 by the learned Judicial Magistrate, Nilakottai. Again, the detenu filed bail application in Cr.M.P.No.148 of 2018 before the Vacation Special Court [District Principal and Sessions Court], Dindigul, which was dismissed on 24.05.2018. Again, he filed bail application before this Court in CrI.OP(MD).No.8792 of 2018, which is pending. However, the Detaining Authority has further stated that there is real possibility of the detenu coming out on bail, 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.

4. We have considered the above submissions.

5. 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 CrI 72** and the order of detention was set aside on the ground of non-application of mind. Recently, this Court had an occasion to deal with a similar issue in **H.C.P.[MD].No.190 of 2018**, dated **24.04.2018**, [**Barani @ Baranidharan Vs. The Principal Secretary to Government**].

6. Following the decisions, referred to above, the Habeas Corpus Petition shall stand allowed and the Detention Order, passed by the second respondent, in his proceedings in Detention Order in Detention Order No.44/2018, dated 30.05.2018, is quashed. The detenu, namely, Jegan, S/o.Pandi, aged about 27 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

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

2. The District Magistrate and District Collector,
<https://hcservices.courts.gov.in/hcservices/>
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 & Order)
Fort St. George, Chennai-9

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

NB

VB/SKN/RSK/SAR1/31.07.2018/3P/6C

ORDER MADE IN
H.C.P(MD) No.779 of 2018
Dated: 11.07.2018