



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.785 of 2018

WEB COPY

Shankarpandi

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (XIV) Department,
Fort St.George,
Chennai 600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.

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 respondent No.2 in Detention Order No.38/2018 dated 29.05.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name, Shankarpandi, son of Lakshmanan, aged about 33 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 - Shankarpandi, son of Lakshmanan. The detenu has been detained by the second respondent by the impugned Detention Order No.38/2018 dated 29.05.2018, holding him to be a "Bootlegger", as contemplated under Section 2 (b) 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 impugned order of detention suffers non application of mind. In that, even though the bail application of the detenu had been dismissed by Judicial Magistrate, Nilakottai, Detaining Authority has referred an order of bail granted by the High Court as justification for passing the order of detention and as reason for adopting similar case theory, 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.38/2018 dated 29.05.2018 is quashed. The detenu, namely, Shankarpandi, son of Lakshmanan, 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 (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise (XIV) Department,
Fort St.George,
Chennai 600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Res.pct.courts@gov.in, Chennai,
Chennai - 9.



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

Nbj

MK/KAK/SAR 4/16.08.2018/3P/6C

H.C.P. (MD) No.785 of 2018
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