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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.09.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P (MD) No.931 of 2018

Mathimaran : Petitioner
Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.

2.The District Collector/The District Magistrate,
Sivagangai District, Sivagangai.

3.The Superintendent,
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 records, relating to the detention order passed by the second respondent in Cr.M.P.No.14/Goonda/2018, dated 15.06.2018 and quash the same and direct the respondents to produce the detenu, Arun @ Arunkumar, S/o.Chandrakumar, Male, aged 19 years, who is detained at Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.T.Kumar
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor.

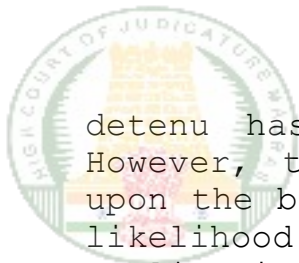
ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The detenu has been detained by the second respondent by his order in Cr.M.P.No.14/Goonda/2018, dated 15.06.2018, holding him to be a "Goonda", as contemplated under Section 2(f) of 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. The learned counsel for the petitioner would submit that there is total non-application of mind on the part of the Detaining Authority in passing the detention order, as, according to him, the



detenu has not filed any bail application in the ground case. However, the detention order has been passed by placing reliance upon the bail orders granted by this Court and stated that there is likelihood of the detenu coming out on bail. Thus, there is non-application of mind on the part of the Detaining Authority.

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4. As rightly contended by the learned counsel appearing for the petitioner, the Detaining Authority referred to the fact that no bail application was filed or pending in the ground case. However, the Detaining Authority proceeded further to express subjective satisfaction that there was a real possibility of the detenu coming out on bail, which shows total non-application of mind. Thus, on this sole ground alone, the impugned detention order is liable to be set aside.

5. In the result, the Habeas Corpus Petition shall stand allowed and the Detention Order passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.14/Goonda/2018, dated 15.06.2018, is quashed. The detenu, namely, Arun @ Arunkumar, S/o.Chandrakumar, Male, aged 19 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.
- 2.The District Collector/The District Magistrate,
Sivagangai District, Sivagangai.
- 3.The Superintendent, Central Prison, Madurai.
4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort.St.George, Chennai -9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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