



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.837 of 2018

Prakash

... Petitioner

Vs.

1.The Additional Chief 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,
Ramanathapuram District.

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

... 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 Cr.M.P.No.19/Goonda/2018, dated 08.06.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name Prakash son of Durairaj, aged about 28 years, now detained at Madurai Central Prison, before this Court and set him at liberty.

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 - Prakash son of Durairaj. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.19/Goonda/2018, dated 08.06.2018, 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 his argument on the ground that when no bail application was pending on the date of passing detention order, the Detaining Authority, while arriving at subjective satisfaction, has stated that there is real possibility for detenu coming out on bail in future by filing bail application, 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 in Cr.M.P.No.19/Goonda/2018, dated 08.06.2018, is quashed. The detenu, namely, Prakash son of Durairaj, 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(W)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Additional Chief 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,
Ramanathapuram District.

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

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

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

H.C.P. (MD) No.837 of 2018
18.07.2018

NBJ

ES/SKN/RSK/SAR 3/09.08.2018/2P/6C