



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM:

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

H.C.P.(MD)No.845 of 2018

N.Vinodha

... Petitioner

Vs.

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

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

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 entire records connected with the detention order in No.47/2018 dated 06.06.2018 passed by the respondent No.2 and quash the same as illegal, and consequently, directing the respondents to produce the body or person of the detenu by name P.Nallamani son of Periyakaruppan, aged about 33 years now detained at respondent No.3 Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner
For Respondents

: Mr.S.Malaikani
: Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the wife of the detenu - P.Nallamani son of Periyakaruppan. The detenu has been detained by the second respondent by the impugned Detention Order No.47/2018 dated



06.06.2018, holding him to be a "Sand Offender", as contemplated under Section 2(gg) 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 from non-application of mind. In that, the Detaining Authority has considered, real possibility of detenu, being released on bail and has arrived at conclusion of real possibility of detenu to be released on bail. Such position is informed in the order of the Detaining Authority in paragraph No.5. The Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, 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 No.47/2018 dated 06.06.2018, is quashed. The detenu, namely, P.Nallamani son of Periyakaruppan, 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-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

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

2. The District Magistrate and District Collector,
Dindigul District. Dindigul.



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

4.The Joint Secretary,
Public (Law and Order) Department,
Secretariat, Chennai - 600 009.

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

NBJ

TE/SKN/SAR-1 : 07/09/2018 : 3P/6C

H.C.P. (MD) No.845 of 2018
24.07.2018