



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM:

WEB COPY

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

H.C.P.(MD)No.850 of 2018

Krishnan

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep.by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort, St.George,
Chennai 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... 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 passed in M.H.S.Confdl.No.47/2018, dated 07.06.2018 on the file of the 2nd respondent and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Krishnan, aged about 48 years, son of Uikkattan, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

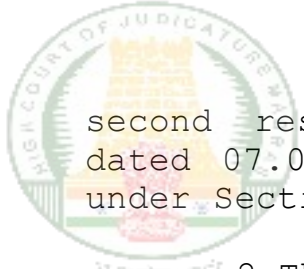
For Petitioner
For Respondents

: Mr.N.Pragalathan
: Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Krishnan, aged about 48 years, son of Uikkattan. The detenu has been detained by the



second respondent by the impugned in M.H.S.Confdl.No.47/2018, dated 07.06.2018, 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, the learned counsel for the petitioner would mainly focus on the ground that the Detaining Authority, while arriving at subjective satisfaction that at the time of passing detention order, no bail application is pending. However, the Detaining Authority has stated that there is real possibility of the detenu coming out on bail 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 M.H.S.Confdl.No.47/2018, dated 07.06.2018, is quashed. The detenu, namely, Krishnan, son of Uikkattan, 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 (T&P)

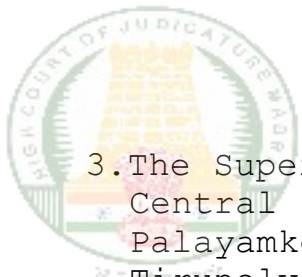
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Sub Assistant Registrar (CS-III)

To

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

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



3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

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

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

NBJ

TE/RP/SAR-3 : 24/08/2018 : 3P/6C

H.C.P. (MD) No.850 of 2018
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