



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.07.2018
CORAM:

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

H.C.P.(MD)No.873 of 2018

Asaithambi ... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
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,
Tiruchirappalli District,
Tiruchirappalli.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the detention order passed in Cr.M.P.No.17/2018 dated 09.06.2018 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely, Praveen Kishore, son of Asaithambi, male aged about 24 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

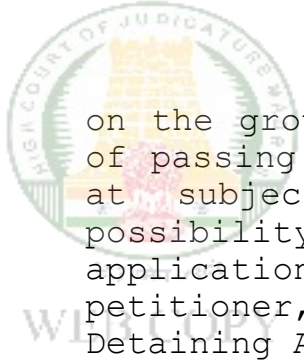
For Petitioner : Mr.A.Joel Paul Antony

For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the father of the detenu - Praveen Kishore, son of Asaithambi. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.17/2018 dated 09.06.2018, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



on the ground that when no bail application is 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.17/2018 dated 09.06.2018, is quashed. The detenu, namely, Praveen Kishore, son of Asaithambi, 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 (AS)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Secretary to Government,
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,
Tiruchirappalli District,
Tiruchirappalli.
3. The Superintendent,
Central Prison,
Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George, Chennai - 9.
5. The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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