



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.864 of 2018

Muthumari ... Petitioner
Vs.

- 1.The Additional Chief 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,
Ramanathapuram District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District. ... 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 of the respondent No.2 in Cr.M.P.No.23/Goonda/2018, dated 14.06.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name Muthumari son of Nagasundaram, aged about 31 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

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 - Muthumari son of Nagasundaram. The detenu has been detained by the second respondent by the impugned in Cr.M.P.No.23/Goonda/2018, dated 14.06.2018, 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 Cr.M.P.No.23/Goonda/2018, dated 14.06.2018, is quashed. The detenu, namely, Muthumari son of Nagasundaram, 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-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Additional Chief 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,
Ramanathapuram District.

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

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



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

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