



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

WEB COPY

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

H.C.P.(MD)No.891 of 2018

Thangapriya

... Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli - 9.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 order of the respondent No.2 in M.H.S.Confdl.No.55/2018 dated 18.06.2018 and quash the same and direct the respondents to produce the detenu by name Suresh son of Sivaperumal, aged about 28 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

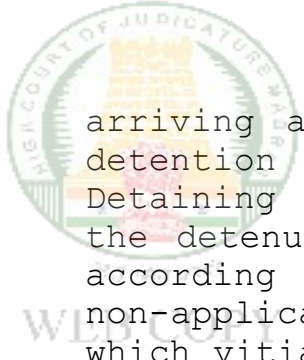
For Petitioner : Ms.R.Vinoth Bharathi
For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the wife of the detenu - Suresh son of Sivaperumal. The detenu has been detained by the second respondent by the impugned Detention Order No.M.H.S.Confdl.No.55/2018 dated 18.06.2018, 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 No.M.H.S.Confdl.No.55/2018 dated 18.06.2018, is quashed. The detenu, namely, Suresh son of Sivaperumal, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

5. In result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-)

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort, St. George, Chennai 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli - 9.
3. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
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 : 2P/6C