



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.07.2018

CORAM:

WEB COPY

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

H.C.P.(MD)No.895 of 2018

Guruvammal

... Petitioner

Vs.

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
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,
Ramanathapuram District.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.

... Respondents

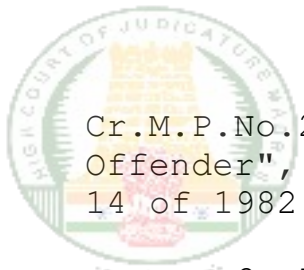
PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in Cr.M.P.No.25/S.O./2018 dated 22.06.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Parambai Bala @ Balakrishnan, son of Malaiyandi, aged about 43 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 wife of the detenu - Parambai Bala @ Balakrishnan, son of Malaiyandi. The detenu has been detained by the second respondent by the impugned Detention Order in



Cr.M.P.No.25/S.O./2018 dated 22.06.2018, 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 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.25/S.O./2018 dated 22.06.2018, is quashed. The detenu, namely, Parambai Bala @ Balakrishnan, son of Maliyandi, 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)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
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,
Ramanathapuram District.



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

WEB COPY

4. The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George,
Chennai - 9.

5. The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.

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

NBJ

TE/RP/SAR-3 : 23/08/2018 : 3P/7C

H.C.P. (MD) No.895 of 2018
27.07.2018