



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.912 of 2018

Madhan @ Madhankumar

... Petitioner

Vs.

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul 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 order of the 2nd respondent in detention order No.54/2018 dated 22.06.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name, Madhan @ Madhankumar son of Kaliappan, aged about 21 years, now detained at Madurai Central Prison before this court.

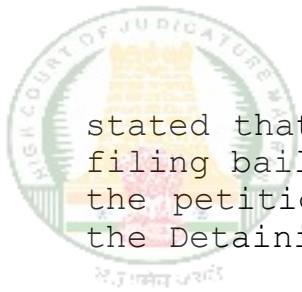
For Petitioner : Mr.R.Alagumani
For Respondents : Mr.V.Neelakandan, APP

ORDER

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

The petitioner is the detenu - Madhan @ Madhankumar son of Kaliappan. The detenu has been detained by the second respondent by the impugned Detention Order No.54 of 2018 dated 22.06.2018, 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, at the time of passing detention order, bail application of the detenu in the ground case was pending. However, the Detaining Authority has



stated that there is likelihood 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. 54 of 2018 dated 22.06.2018, is quashed. The detenu, namely, Madhan @ Madhankumar son of Kaliappan, 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 (CO)

/True Copy/

Sub Assistant Registrar (CS-III)

To

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

H.C.P. (MD) No. 912 of 2018
16.07.2018

nbj

JM/SKN RSK/SAR 3/10.08.2018/2P/6C