



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P. (MD) No.905 of 2018

P.Ezhilarasi

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Home, Prohibition and Excise (XIV) Department,  
Fort St.George, Chennai- 600 009.

2. The Commissioner of Police,  
Madurai City, Madurai.

3. The Superintendent of Central Prison,  
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 of the detention order of the 2<sup>nd</sup> respondent in proceedings in No.28/BCDFGISSSV/2018, dated 03.05.2018 and quash the same and consequently direct the respondents to produce the detenu namely Mr.Saravanan @ Kaliya Saravanan, son of Pandikumar before this Court who is detained at Central Prison, Madurai and set him at liberty.

For Petitioner

: Mr.M.Kannan

For Respondents

: Mr.V.Neelakandan

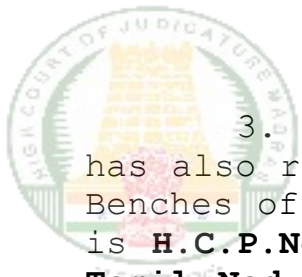
Additional Public Prosecutor

#### **ORDER**

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

The petitioner is the mother of the detenu - Saravanan @ Kaliya Saravanan, S/o.Pandikumar, male. The detenu has been detained by the second respondent by his proceedings in No.28/BCDFGISSSV/2018, dated 03.05.2018 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the number, of the bail petition, which had been filed on behalf of the detenu, had been informed wrongly in the grounds of detention and hence, the same denies the right of making effective representation against the order of detention. Therefore, non-furnishing of the documents relied on would vitiate the order of detention.



3. In this regard, the learned counsel for the petitioner has also relied upon number of judgments delivered by the Division Benches of this Court, one such case relied upon by the petitioner is **H.C.P.No.2433 of 2015** in the case of **Shanmugavel vs. State of Tamil Nadu**, wherein, this Court, by relying upon the dictum laid down by the Hon'ble Supreme Court in **M.Ahamed Kutty vs. Union of India and another [1990 (2) SCC 1]**, has quashed the detention order. The relevant portion from the said judgment reads as follows:

"7. Considering the facts in the instant case, the bail application and the bail order were vital materials for consideration. If those were not considered the satisfaction of the detaining authority itself would have been impaired and if those had been considered, they would be documents relied on by the detaining authority though not specifically mentioned in the annexure to the order of detention and those ought to have formed part of the documents supplied to the detenu with the grounds of detention and without them the grounds themselves could not be said to have been complete. We have, therefore, no alternative but to hold that it amounted to denial of the detenu's right to make an effective representation and that it resulted in violation of Article 22(5) of the Constitution of India rendering the continued detention of the detenu illegal and entitling the detenu to be set at liberty in this case." (Emphasis added)."

4. The said Judgment is squarely applicable to the case on hand also. Therefore, following the dictum laid down by the Hon'ble Supreme Court, we hold that the impugned detention order is vitiated and the same is liable to be set aside.

5. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in No.28/BCDFGISSSV/2018, dated 03.05.2018, is quashed. The detenu, namely Saravanan @ Kaliya Saravanan, S/o.Pandikumar, male, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-III)



To

1. The Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise (XIV) Department,  
Fort St.George, Chennai- 600 009.
2. The Commissioner of Police,  
Madurai City, Madurai.
3. The Superintendent of Central Prison,  
Central Prison, Madurai.
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.

+1cc to Mr. M.Kannan, Advocate Sr.No.75777

RJ2

VB/SKN/SAR3/21.08.2018/3P/7C

**H.C.P. (MD) No.905 of 2018**  
**30.07.2018**