



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.07.2018

CORAM:

WEB COPY

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

H.C.P. (MD) No.901 of 2018

Saroja

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
3. The Superintendent of Prison,
Central Prison, Tiruchirappalli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Cr.M.P.No.24/2018, dated 25.06.2018 in detaining the detenu under Section 2(g) of the Tamilnadu Act 14 of 1982 as a Immoral Traffic Offender and quash the same and direct the respondents to produce the detenu namely Loganathan, S/o.Ponnusamy, Male, aged about 37 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.V.Neelakandan

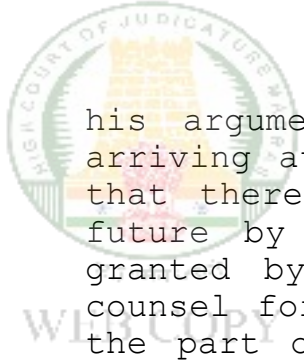
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu - Loganathan, S/o.Ponnusamy, Male, aged about 37 years. The detenu has been detained by the second respondent by the impugned in Cr.M.P.No.24/2018, dated 25.06.2018, holding him to be a "Immoral Traffic Offender", as contemplated under Section 2(g) 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



his argument on the ground that the Detaining Authority, while arriving at subjective satisfaction, in Paragraph No.5, has stated that there is real possibility for detenu coming out on bail in future by filing bail application as in similar case, bail was granted by the Court concerned, 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 Cr.M.P.No.24/2018, dated 25.06.2018, is quashed. The detenu, namely, Loganathan, S/o.Ponnusamy, Male, aged about 37 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

5. Accordingly, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
3. The Superintendent of Prison,
Central Prison, Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George, Chennai - 9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

LS/RJ2

TE/RP/SAR-3 : 21/08/2018 : 2P/6C