



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

H.C.P(MD)No.962 of 2018

Rajamoorthy

: Petitioner

Vs.

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

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the Respondent No.2 in Detention Order No.57/2018, dated 02.07.2018 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Rajamoorthy, S/o.Murugan, aged about 25 years, detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan

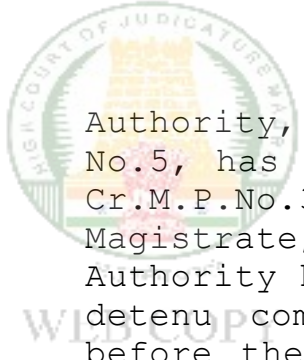
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

The petitioner is the detenu - Rajamoorthy, S/o.Murugan, aged about 25 years. The detenu has been detained by the second respondent by his Detention Order in Detention Order No.57/2018, dated 02.07.2018, holding him to be a "Goonda", as contemplated under Section of 2(f) Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the 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 the bail application filed by the detenu in Cr.M.P.No.3561 of 2018 was dismissed by the learned Judicial Magistrate, Nilakkottai, on 13.06.2018. However, the Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, 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.

4. We have considered the above submissions.

5. As rightly pointed out by the learned counsel appearing for the petitioner, the Detaining Authority, while arriving at subjective satisfaction, in Paragraph No.5, has stated that the bail application filed by the detenu in Cr.M.P.No.3561 of 2018 was dismissed by the learned Judicial Magistrate, Nilakkottai, on 13.06.2018. However, the Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, which shows total non-application of mind on the part of the Detaining Authority, which vitiates the order of detention.

6. 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. Recently, this Court had an occasion to deal with a similar issue in **H.C.P.[MD].No.190 of 2018**, dated **24.04.2018**, [**Barani @ Baranidharan Vs. The Principal Secretary to Government**].

7. Following the decisions, referred to above, the Habeas Corpus Petition shall stand allowed and the Detention Order, passed by the second respondent, in his proceedings in Detention Order in Detention Order No.57/2018, dated 02.07.2018, is quashed. The detenu, namely, Rajamoorthy, S/o.Murugan, aged about 25 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Principal Secretary to Government,
<https://hcservices.ecourts.gov.in/hcservices/>
 Home, Prohibition and Excise Department,
 Secretariat, Chennai 600 009.



2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District, Dindigul.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort.Saint George, Chennai. 09.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Nb

MK/RP/SAR 1/06.09.2018/3P/6C

ORDER MADE IN
H.C.P(MD)No.962 of 2018
Dated: 03.08.2018