



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **19.09.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

H.C.P(MD)No.984 of 2018

A.Jayakumar

: Petitioner

Vs.

1. State of Tamil Nadu, rep by its,
Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.

2. The District Collector,
Pudukkottai District, Pudukkottai.

3. The Superintendent,
Central Prison, Tiruchirappalli.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records, relating to the detention order passed by the second respondent in P.D.O.No.10/2018, dated 25.06.2018 and quash the same and direct the respondents to produce the body or person of the detenu, Ramachandran @ Moorthi, S/o.Kuppusamy, aged about 40 years, now detained at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor.

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The detenu has been detained by the second respondent by his order in P.D.O.No.10/2018, dated 25.06.2018, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.



3. Though the order of detention has been assailed on several grounds, the learned counsel for the petitioner primarily relies on the contention that clamping of an order of detention on a person, who was already in custody as a remand prisoner in the ground case, without expressing subjective satisfaction of the detaining authority regarding the imminent possibility of the detenu coming out on bail in the ground case, would vitiate the order of detention, as the detaining authority had not applied its mind to the necessity of clamping an order of detention while the detenu was in custody as a remand prisoner.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

5. The detaining authority observed that no bail application had been filed in the ground case in Crime No.105 of 2018, registered on the file of Ganesh Nagar Police Station. However, the Detaining Authority has not expressed his subjective satisfaction of the real possibility of the detenu coming out on bail. In addition, the Detaining Authority also has not referred to any similar case particulars. As such, the contention raised on behalf of the petitioner that the failure on the part of the Detaining Authority to express subjective satisfaction regarding the imminent possibility of the detenu coming out on bail in the ground case and also the failure to refer to similar case particulars as the basis for such subjective satisfaction, will militate against the necessity to clamp an order of detention while the detenu was in custody as a remand prisoner. On that score also, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition shall stand allowed and the Detention Order passed by the second respondent, in his proceedings in Detention Order in P.D.O.No.10/2018, dated 25.06.2018, is quashed. The detenu, namely, Ramachandran @ Moorthi, S/o.Kuppusamy, aged about 40 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Secretary to Government,

<https://hcservices.homes.gov.in/hcservices> Home, Police, P.W.D. and Excise Department,

Fort.St.George, Secretariat,

Chennai - 600 009.



2. The District Collector,
Pudukkottai District, Pudukkottai.

3. The Superintendent,
Central Prison, Tiruchirappalli.

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

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

NB

VB/RSK/SAR4/09.10.2018/3P/6C

ORDER MADE IN
H.C.P (MD) No.984 of 2018
Dated:19.09.2018