



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1041 of 2018

Thangaraj

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 9.

2.The District Collector & District Magistrate,
Tirunelveli District.

3.The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent in detention order in M.H.S.Confdl.No.48/2018, dated 07.06.2018 and quash the same and direct the respondents to produce the detenu namely Manikumar, S/o.Thangaraj, aged about 24 years now detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner is the father of the detenu - Manikumar, S/o.Thangaraj, aged about 24 years. The detenu has been detained by the second respondent by the impugned order in M.H.S.Confdl.No.48/2018, dated 07.06.2018, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of



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, while arriving at subjective satisfaction, has observed that at the time of passing detention order, no bail application is pending. However, the Detaining Authority has stated that there is real possibility 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 in M.H.S.Confd1.No.48/2018, dated 07.06.2018, is quashed. The detenu, namely, Manikumar, S/o. Thangaraj, aged about 24 years, 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 (P & A)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Secretary to the Government,
State of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St. George,
Chennai - 9.
2. The District Collector & District Magistrate,
Tirunelveli District.
3. The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.
4. The Joint secretary to Government,
Public (Law & Order), Fort St. George, Chennai 09.



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

WEB COPY +1 CC To MR.D.VENKATESH, Advocate SR. NO. 89615

Order made in
H.C.P. (MD) No.1041 of 2018
Dated: 09.10.2018

SML

TR/RP/SAR-I (08.11.2018) 3P 7C