



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
H.C.P(MD)No.1100 of 2018

Radha

.. Petitioner

Vs.

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

2.The District Magistrate and District Collector,
The District Collector,
Pudukottai District,
Pudukottai.

3.The Superintendent,
Central Prison,
Tiruchirapalli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the 2nd respondent P.D.O.No.17/2018 dated 17.07.2018 and quash the same and direct the Respondents to produce the body or person of the detenu petitioner son namely Kaliswaran @ Manoj Karthick, aged about 31 years S/o.Venugobal detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.K.G.Arunkumar

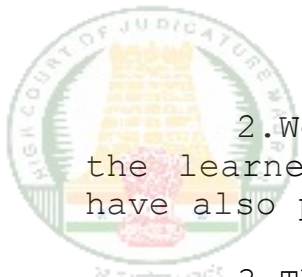
For Respondents: Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

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

The detenu has been detained by the second respondent vide his order in P.D.O.No.17/2018 dated 17.07.2018, 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. The learned counsel appearing for the petitioner would submit that there is total non-application of mind on the part of the Detaining Authority in passing the detention order, as, according to him, the detenu has filed bail application in the ground case and the same was dismissed on 12.07.2018 and thereafter no application for bail was filed by the detenu. However, without any material, the detaining authority came to the conclusion that there is real possibility of the detenu coming out on bail. Further, no cogent materials are available that there is likelihood of the detenu coming out on bail. Thus, there is non-application of mind on the part of the Detaining Authority.

4. As rightly contended by the learned counsel appearing for the petitioner, the bail application filed by the detenu in the ground case has already been dismissed and thereafter, the detenu has not filed a fresh application. However, the Detaining Authority proceeded further to express subjective satisfaction that there was real possibility of the detenu coming out on bail, which shows total non-application of mind. Thus, on this sole ground alone, the impugned detention order is liable to be set aside.

5. 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.17/2018 dated 17.07.2018, is quashed. The detenu, namely, Kaliswaran @ Manoj Karthick, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (Crl-Side)

// True Copy //

Sub Assistant Registrar (CS-II)

To

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

<https://hcservices.courts.gov.in/services/>
2. The District Magistrate and District Collector,
The District Collector,
Pudukottai District, Pudukottai.



3.The Superintendent,
Central Prison, Tiruchirapalli.

4.The 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.

MJ

BU/NM/SKN/SAR-2 :15.11.2018 : 3P/6C

H.C.P (MD) No.1100 of 2018
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