



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.1103 of 2018

Karthick @ Karuppu Karthick

... Petitioner

-vs-

1.State of Tamil Nadu, rep. by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in detention order passed in P.D.O.No.16/2018 dated 17.07.2018 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the Petitioner namely Karthick @ Karuppu Karthick, S/o. Poobalan, male aged 29 years, who is now detained in Central Prison, Tiruchirappalli before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu
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.]

<https://hcservices.ecourts.gov.in/hcservices/> The Petitioner Karthick @ Karuppu Karthick, S/o. Poobalan, male, aged 29 years, is the detenu. The detenu has been detained by the second respondent by his order in P.D.O.No.16/2018 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 appearing for the respondents. We have also perused the records produced by the Detaining Authority. Despite several opportunities have been given, no counter affidavit has been filed by the respondents. Therefore, the matter is proceeded based on the submissions on either side and the available materials on record.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the impugned order of detention suffers from non-application of mind. In that, detaining authority has informed knowledge of detenu having moved a bail application in the ground case, however, he has failed to inform the possibility or otherwise of being released on bail. Such position reflects non-application of mind in passing detention order, 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. An identical issue was considered by a Division Bench of this Court in **T.Chitra v. 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 impugned detention order is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.O.No.16/2018, dated 17.07.2018, passed by the second respondent is set aside. The detenu, namely, Karthick @ Karuppu Karthick, S/o. Poobalan, male, aged 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

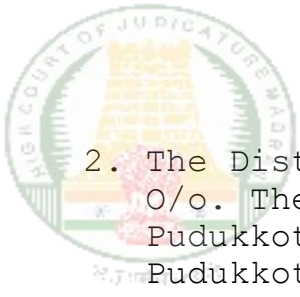
Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar (CS-II)

To:

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.



2. The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.

WEB COPY

3. The Superintendent,
Central Prison,
Tiruchirappalli.

4. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9.

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

SJ

TE/SV/SAR-2 : 09/11/2018 : 3P/6C

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