



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2018

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

H.C.P (MD)No.1104 of 2018

Ganeshkumar @ Ganesan

: 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 praying to issue a Writ of Habeas Corpus, calling for the entire records in detention order passed in P.D.O.No.19/2018 dated 23.07.2018 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner namely Ganeshkumar @ Ganesan, S/o.Rajagopal, male, aged about 23 years, who is detained in Central Prison, Tiruchirappalli before this 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.]

The petitioner is the detenu - Ganeshkumar @ Ganesan, aged about 23 years, S/o.Rajagopal. The detenu has been detained by the second respondent by his Detention Order in P.D.O.No.19/2018, dated 23.07.2018, 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.Despite several opportunities, no counter affidavit has been filed by the learned Additional Public Prosecutor.

3.Though several grounds have been raised in the Habeas Corpus Petition, learned counsel 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 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 P.D.O.No.19/2018, dated 23.07.2018, is quashed. The detenu, namely, Ganeshkumar @ Ganesan, S/o.Rajagopal, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

6.In the upshot, we allow the Habeas Corpus Petition.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)



1. The Principal Secretary to Government,
State of Tamil Nadu,
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.
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.

NS

TE/SKN/SAR-4 : 13/11/2018 : 3P/6C

ORDER MADE IN
H.C.P (MD) No.1104 of 2018
Dated: 11.10.2018