



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
H.C.P (MD) No.1106 of 2018

Pandi

: Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Chairman,
Advisory Board,
No.32, Rajaji Road,
Singaravelar Maligai Ground Floor,
(Back side entrance)
Chennai Collectorate Complex,
Chennai-600 001.

3.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.

4.The Inspector of Police,
Palayanoor Police Station,
Sivagangai District.

5.The Superintendent of Prison,
Central Prison,
Madurai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to direct the respondents herein to produce the detainee KANITH @ KANITHKUMAR, aged about 19 years, who has been termed as "Goonda" and detained in the 5th respondent's prison and to call for the entire records relating to the detention order in Cr.M.P.No.17/Goonda/2018, dated 05.07.2018 passed by the 3rd respondent herein and to set aside the same and to set him at liberty.

For Petitioner

: Mr.M.S.Jeyakumar

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 detainee has been detained by the third respondent by his order in Cr.M.P.No.17/Goonda/2018, dated 05.07.2018, 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 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 not filed any bail application in the ground case. However, the detention order has been passed by placing reliance upon the bail orders granted by this Court and stated 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 Detaining Authority referred to the fact that no bail application was filed or pending in the ground case. 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 Cr.M.P.No.17/Goonda/2018, dated 05.07.2018, is quashed. The detenu, namely, KANITH @ KANITHKUMAR, S/o.Pandi, Male, aged 19 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/
Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar(CS-IV)

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Chairman,
Advisory Board,
No.32, Rajaji Road,
Singaravelar Maligai Ground Floor,
(Back side entrance)
Chennai Collectorate Complex,
Chennai-600 001.



3.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.

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

5.The Inspector of Police,
Palayanoor Police Station,
Sivagangai District.

6.The Superintendent of Prison,
Central Prison,
Madurai.

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

+1cc to Mr.M.S.JEYAKARTHIK, Advocate, SR.No.86636

H.C.P (MD) No.1106 of 2018
Dated:25.09.2018

NS
KK/SV/SAR-4/12.11.2018/3P-9C