



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2018

CORAM:

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

H.C.P. (MD) No.1130 of 2018

Sudalaikannau @ Durai

... Petitioner

-vs-

- 1.State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in M.H.S.Confdl.No.71/2018 dated 18.07.2018 on the file of the 2nd respondent herein and quash the same and to direct the respondents to produce the detenu or body of the detenu namely, Sudalaikannu alias Durai, aged about 29 years, S/o. Esakkipandian, now detained at Central Prison, Palayamkottai, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

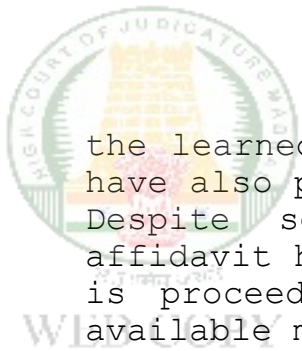
O R D E R

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

The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.71/2018, dated 18.07.2018, 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.

<https://hcservices.ecourts.gov.in/hcservices/>

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. 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. 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 and the adverse cases. However, the detention order has been passed by placing reliance upon the bail orders granted by the Courts below 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 and the adverse cases. 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 M.H.S.Confdl.No.71/2018, dated 18.07.2018, is quashed. The detenu, namely, Sudalaikannu alias Durai, S/o.Esakkipandian, Male, aged 29 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar(CS-I)

To:

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



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

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

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.

H.C.P. (MD) No.1130 of 2018
08.10.2018

sj
TR/RP/SAR-I (08.11.2018) 3P 6C