



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **09.10.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

H.C.P (MD) No.1164 of 2018

S.Chellammal

: 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

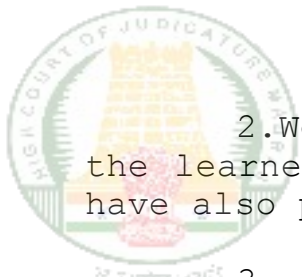
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in M.H.S.Confdl.No.52/2018, dated 12.06.2018 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu i.e., the petitioner's husband namely Sanniyasi alias Sankar, aged about 34 years, S/o.Petchi Thevar, now detained at Central Prison, Palayamkottai, before this 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 her order in M.H.S.Confdl.No.52/2018, dated 12.06.2018, 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 the Court concerned 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 her proceedings in Detention Order in M.H.S.Confdl.No.52/2018, dated 12.06.2018, is quashed. The detenu, namely, Sanniyasi alias Sankar, S/o.Petchi Thevar, aged about 34 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
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-9

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

SML

VB/SKN/SAR4/01.11.2018/3P/6C

ORDER MADE IN
H.C.P (MD) No.1164 of 2018
Dated: 09.10.2018