



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P(MD)No.1201 of 2018

Mahalakshmi

: Petitioner

Vs.

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

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

3. 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 call for the entire records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings Detention Order Cr.M.P.No.11/2018 (Drug Offender) dated 02.08.2018 in detaining the detenu under Section 2(e) of the Tamil Nadu Act 14 of 1982 as a DRUG OFFENDER and quash the same and direct the respondents to produce the detenu nemaly Subburaj, S/o.Velsamy, male, aged about 39 years, who is detained in Central Prison, Madurai before this Court and set the petitioner at liberty.

For Petitioner : Mr.A.Joseph Jerry

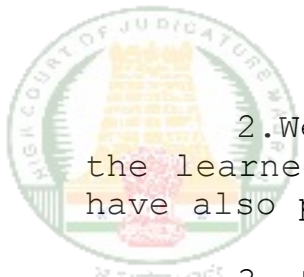
For Respondents : Mr.K.Dinesh Babu

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 CR.M.P.No.11/2018 (Drug Offender), dated 02.08.2018, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 CR.M.P.No.11/2018(Drug Offender), dated 02.08.2018, is quashed. The detenu, namely, Subburau, S/o.Velsamy, Male, aged 39 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
2. The District Magistrate and District Collector,
Virudhunagar District,
Virudhunagar.
3. The Superintendent of Prison,
Central Prison,
Madurai.



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

5. The Joint Secretary to Government,
Public (Law and Order),
Fort.Saint George, Chennai. 09.

ns

MK/ES/RSK/SAR 2/27.12.2018/3P/6C

ORDER MADE IN
H.C.P (MD) No.1201 of 2018
Dated:30.10.2018