



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P[MD]No.1324 of 2018

Robin @ Rabi

: Petitioner

Vs.

1.The 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,
Kanniyakumari District,
Nagercoil.

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, calling for the entire records connected with the detention order passed in P.D.No.44/2018 dated 31.08.2018 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, namely Robin @ Rabi, aged about 33 years, S/o. Alangamani, 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 his order in P.D.No.44/2018 dated 31.08.2018, 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 P.D.No.44/2018 dated 31.08.2018, is quashed. The detenu, namely, Robin @ Rabi, S/o. Alangamani, Male, aged about 33 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)

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SUB ASSISTANT REGISTRAR (CS III)

MR

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,
Kanniyakumari District,
Nagercoil.

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



4. The joint Secretary to Government of Tamil Nadu,
Public (Law and Order) Department, Fort st. George,
Chennai. 600 009.

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

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ORDER MADE IN
H.C.P[MD]No.1324 of 2018
31.10.2018