



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2018

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

H.C.P(MD)No.1412 of 2018

Walter Murugan @ Murugan

: Petitioner

Vs.

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.
2. The District Collector and the District Magistrate,
Office of the District Collector and District Magistrate,
Ramanathapuram District.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

: 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 of the Respondent No.2 in Cr.M.P.No.38/Goonda/2018, dated 18.08.2018 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Walter Murugan @ Murugan, S/o.Periyandi, aged about 34 years, now detained at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.R.Anandraj
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 detenu has been detained by the second respondent by his order in Cr.M.P.No.38/Goonda/2018, dated 18.08.2018, 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 Detention Order in Cr.M.P.No.38/Goonda/2018, dated 18.08.2018, is quashed. The detenu, namely, Walter Murugan @ Murugan, S/o.Periyandi, 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 (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.

2. The District Collector and the District Magistrate,
<https://hcservices.ecourts.gov.in/hcservices/>
Office of the District Collector and District Magistrate,
Ramanathapuram District.



3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
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.

NB

TE/SV/SAR-4 : 17/12/2018 : 3P/6C

ORDER MADE IN
H.C.P (MD) No.1412 of 2018
Dated:02.11.2018