



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **12.09.2019**
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P. (MD)No.259 of 2019

Manikandan @ Manikanda Prabhu : Petitioner
Vs.

1.State of Tamil Nadu

Represented by the Principal Secretary to Government
Home, Prohibition and Excise Department
Fort.St.George
Chennai 600 009

2.The District Collector and District Magistrate,
Kanyakumari District
Nagercoil

3.The Superintendent of Prison
Central Prison,
Palayamkottai
Tirunelveli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in P.D.No.06/2019 dated 07.03.2019 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Manikandan @ Manikanda Prabhu, aged about 32 years, S/o.Durai @ Chithambaranathan, 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

ORDER

S.VAIDYANATHAN, J.

AND

N.ANAND VENKATESH, J.

Challenge is made to the order of detention passed by the second respondent vide proceedings in P.D.No.06/2019 dated 07.03.2019, whereby, the detenu was ordered to be detained under the

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



provisions of the Tamil Nadu Act 14 of 1982, branding him as a "Goonda".

2. The learned counsel for the petitioner submitted that there are two adverse cases in Crime No.275 of 2018 and 70 of 2019 pending against the petitioner at the stage of investigation. That apart, the petitioner was also arrested in the ground case in Crime No.73 of 2019.

3.The learned counsel further submitted that the Detaining Authority was aware of the fact that the petitioner was already arrested in the 2nd adverse case and he was in judicial custody and he was also arrested in the ground case. The Detaining Authority was also aware of the fact that on the date of passing the Detention Order, no bail application was filed by the petitioner before any Court. However, while coming to the subjective satisfaction, regarding imminent possibility of the petitioner being released on bail, the Detaining Authority has taken note of the ground case and has stated that in similar cases, the concerned accused persons have been granted bail in the year 2016. Therefore, the learned counsel submitted that the detention order suffers from non application of mind.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondents.

5. On a careful reading of the Detention Order, we find that the Detaining Authority has taken note of only the ground case at paragraph- 4 of the detention order, wherein he has specifically stated that no bail application has been filed in the ground case. In spite of the same, the Detaining Authority has taken note of the similar cases, where the accused person therein were granted bail in the year 2016. This finding has been arrived at without any supporting material regarding the imminent possibility of the petitioner being released on bail in the ground case. That apart, the petitioner is also in judicial custody in the 2nd adverse case and this has not been taken note of by the Detaining Authority. The facts of the case are squarely covered by the Judgment of the Hon'ble Supreme Court in ***Rekha v. State of Tamil Nadu (2011) 5 SCC 244***).

6.This Court is the considered view that the Detention Order suffers from non application of mind and hence, the same is vitiated.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.No.06/2019 dated 07.03.2019 is quashed. The detenu, namely Manikandan @ Manikanda Prabhu, S/o.Durai @ Chithambaranathan, aged about 32 years, is ordered to be set at



liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (P&A)

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// True Copy //

Sub Assistant Registrar(CS)

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,
Kanyakumari District
Nagercoil
- 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.

Order made in
H.C.P. (MD)No.259 of 2019
Dated: 12.09.2019

msa

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