



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.09.2019**

CORAM

WEB COPY

**THE HON'BLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

H.C.P(MD)No.271 of 2019

Selvaraj

...Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.

2.The District Collector and District Magistrate
Tiruchirapalli District
Tiruchirapalli

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

...Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in Cr.M.P.No.07/2019 dated 16.03.2019 in detaining the detenu under Section 2(b) of the Tamil Nadu Act 14/1982 as a Boot-Legger and quash the same and direct the respondents to produce the Detenu namely Sarathkumar, S/o.Selvaraj, Male, aged about 26 years, who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner

: Mr.K.M.Karunakaran

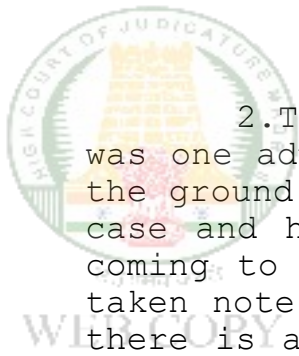
For Respondents

: Mr.K.Dinesh Babu

Addl. Public Prosecutor

O R D E R

The present Habeas Corpus Petition is directed against the Detention Order passed by second respondent in Cr.M.P.No.07/2019 dated 16.03.2019.



2.The learned counsel for the petitioner submitted that there was one adverse case and a ground case. The detainee was arrested in the ground case and was produced through P.T. Warrant in the adverse case and he was remanded in the adverse case also. However, while coming to the subjective satisfaction, the Detaining Authority has taken note of bail petition that was pending in the ground case and there is absolutely no reference to the adverse case, wherein, the detainee was under judicial custody. Therefore, the learned Counsel submitted that the Detention order suffers from non application of mind.

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

4.This Court has carefully considered the submission made on either side. A reading of the Detention Order shows that the Detaining Authority was aware about the detainee remanded in the adverse case through P.T. Warrant. However, at paragraph-5 of the Detention Order, there is only reference to the bail petition pending in the ground case and there is absolutely no reference to the adverse case. Even insofar as the ground case is concerned, there is absolutely no material that was relied upon by the Detaining Authority to come to the subjective satisfaction with regard to imminent possibility of the detainee coming out on bail. Therefore, the Detention Order suffers from non application of mind and the same is vitiated.

5.In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.07/2019 dated 16.03.2019, passed by the second respondent is set aside. The detainee, namely, Sarathkumar, son of Selvaraj, aged about 26 years, is directed to be released forthwith unless his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.

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



2.The District Collector and District Magistrate
Tiruchirapalli District
Tiruchirapalli

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4. The Joint Secretary to Government, Public (Law & Order)
Secrteriat, Fort St.George,
Chennai - 600 009.

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

ORDER MADE IN

H.C.P (MD) No.271 of 2019

12.09.2019

msa

MS/03.10.2019/3P.6C