



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.SUBBIAH

AND

THE HON'BLE Mr. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1539 of 2018

Mahesh

... Petitioner

Vs.

- 1.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,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Police,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in M.H.S.Confdl.No.124/2018, dated 08.10.2018 on the file of the 2nd respondent and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Mahesh, aged about 27 years, son of Pulamadan, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner	: Mr.N.Pragalathan
For Respondents	: Mr.V.Neelakandan, APP

ORDER

(Order of the Court was made by R.SUBBIAH,J.)

The detenu has been detained by the second respondent by order in M.H.S.Confdl.No.124/2018 dated 08.10.2018 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.

3. The learned counsel for the petitioner submitted 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. When no bail application is pending, the question of coming out on bail, does not arise. 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 is allowed and the detention order passed by the second respondent in his proceedings in M.H.S.Confdl.no.124/2018 dated 08.10.2018 is quashed. The detenu, namely, Mahesh, aged about 27 years, son of Pulamadan, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

nbj

To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Police,
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.

H.C.P. (MD) No. 1539 of 2018
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TR (28.03.2019) 3P 6C