



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1786 of 2018

Suresh

: Petitioner

Vs.

1.The Additional Chief Secretary to Government

State of Tamil Nadu,

Home, Prohibition and Excise Department,

Fort St. George, Chennai-9.

2.The District Magistrate and District Collector,

Office of the District Magistrate and District Collector,

Madurai District.

3.The Superintendent of Prison

Madurai Central Prison,

Madurai District.

: 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 of the respondent No.2 in No.BCDFGISSSV No.13/2018 dated 12.12.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Suresh, son of Pandi, aged about 28 years, now confining at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.C.Ramesh

For Respondents : Mr.M.Chandrasekaran

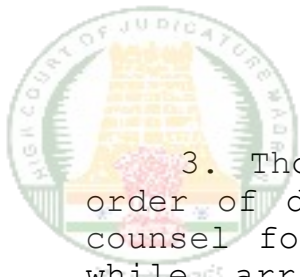
Additional Public Prosecutor

ORDER

B. PUGALENDHI, J

The petitioner is the detenu viz., Suresh, S/o.Pandi, aged about 28 years. The detenu has been detained, as per the order of the second respondent, dated 13.12.2018, under Section 2(b) of the Tamil Nadu Act 14 of 1982, branding him as "BOOTLEGGERS". Challenging the same, the petitioner/detenu is before this Court in this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/> 2. We have heard the learned counsel for the petitioner/detenu and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.



3. Though a number of grounds have been raised assailing the order of detention, at the time of making submission, the learned counsel for the petitioner submitted that the Detaining Authority, while arriving at the subjective satisfaction that there is likelihood of the detenu coming out on bail, in paragraph No.5 of the grounds of detention, has referred to the similar case registered in Crime No.1387/2018, on the file of Thirumangalam Prohibition Enforcement Wing, for offences under Sections 4(1) (a), 4(1-A) TNP Act (Transport) @ 4(1) (a), 4(1) (aaa), 4(1) (i), 4(1-A) TNP Act (Transport) r/w Section 7 TNP Act and in the said case, bail was granted to the accused Muthu, by this Court, vide order dated 02.11.2018 in CrI.O.P.(MD)No.20109 of 2018. Though the Detaining Authority has referred to the similar case particulars in the grounds of detention, the documents relating to similar case were not at all furnished to the detenu. Therefore, non-furnishing of entire documents relating to similar case would vitiate the order of detention. Hence, on that ground, the detention order is liable to be set aside.

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contention raised by the learned counsel for the petitioner are also heard.

5. In our considered opinion, the Detaining Authority, while relying upon the similar case particulars, for clamping the order of detention as against the detenu, ought to have furnished the entire documents relating to the similar case, so as to enable the detenu, to challenge the order of detention in an effective manner. The failure to do so would vitiate the order of detention. Therefore, on that score alone, the order of detention is liable to be set aside.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in BCDFGISSSV No.13/2018, dated 13.12.2018, is quashed. The detenu, namely Suresh, S/o.Pandi, aged about 28 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 (CO)

/ True Copy /

Sub Assistant Registrar (CS)

RR

To

1.The Additional Chief Secretary to Government
State of Tamil Nadu,
<https://hcservices.ecourts.gov.in/hcservices/>
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.



2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Madurai District.

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

4. The Joint Secretary to Government,
Public (Law & Order) Department,
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.1786 of 2018
Dated: 22.04.2019

ES/15.05.2019/3P/6C