



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 30.04.2019
CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) NO. 1698 OF 2018

Mohanambal

... Petitioner

- Vs -

1. The Prl. Secretary to Govt.
State of Tamil Nadu
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.

2. The District Magistrate & District Collector
Office of the District Magistrate
& District Collector, Karur District.

3. The Superintendent of Prison
Trichy Central Prison
Trichy District.

... Respondents

Petition filed for the issuance of a writ of habeas corpus calling for the entire records pertaining to the Detention Order passed by the 2nd respondent in Cr. M.P. No.08/2018 dated 20.11.2018 and quash the same and direct the respondents to produce the body or person of the detenu by name Shankar @ Auto Shankar, S/o Veerachamy, aged 32 years, now detained at Trichy Central Prison, before this Court and set him at liberty.

For Petitioner : Mr. N.Ananthapadmanabhan
For Respondents : Mr. M.Chandrasekaran, APP

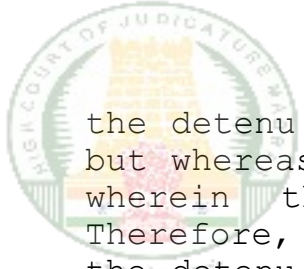
ORDER

(DELIVERED BY B.PUGALENDHI, J.)

The present habeas corpus petition has been preferred by the petitioner challenging the detention order dated 20.11.2018 passed by the 2nd respondent in and by which the 2nd respondent detained the detenu, Shankar @ Auto Shankar, S/o Veerachamy, aged 32 years, branding him as a 'Goonda' under Section 3 (1) of Prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980 with a view to preventing him from acting prejudicial to the interest of public health and public order.

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

2. Learned counsel appearing for the submitted that in para-7 of the grounds of detention, the Detaining Authority has stated that



the detenu has not filed any bail application in Crime No.374/2018, but whereas, has relied upon the bail orders of some similar cases, wherein the said accused were released on statutory bail. Therefore, it is submitted that when no bail application is filed by the detenu, the subjective satisfaction arrived at by the detaining authority that there is imminent possibility of the detenu coming out on bail is vitiated and, therefore, the detention order is liable to be quashed.

3. Heard the learned Addl. Public Prosecutor on the above contentions.

4. A perusal of the detention order, more especially para-7 reveals that the detaining authority has stated that the detenu has not filed any bail application in Crime No.374/18, however, has relied upon certain cases in which statutory bail has been granted and, therefore, has held that there is imminent possibility of the detenu coming out on bail. When no bail application has been filed by the detenu, the imminent possibility of the detenu coming out on bail does not arise at all and, therefore, the subjective satisfaction arrived at by the detaining authority stands vitiated.

5. Accordingly, this habeas corpus petition is allowed and the order of detention in Cr. M.P. No.08/2018 dated 20.11.2018 is quashed and the detenu Shankar @ Auto Shankar, S/o Veerachamy, aged 32 years, now detained at Trichy Central Prison, is directed to be released forthwith unless his presence/detention is required in connection with any other case.

sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Prl. Secretary to Govt.
State of Tamil Nadu
Home, Prohibition & Excise Dept.
Fort St. George, Chennai 600 009.
2. The District Magistrate & District Collector
Office of the District Magistrate
& District Collector, Karur District.
3. The Superintendent of Prison
Trichy Central Prison
Trichy District.



4. The Joint Secretary to govt.,
Public(Law&order),
Fort St. George,
Chennai 9

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

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gln

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