



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.100 of 2021

K.Aandi

..Petitioner/father of the detenu

-vs-

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and District Magistrate,
Theni District.

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records from the 2nd respondent in his Detention Order No.67/2020, dated 05.11.2020 and quash the same and direct the respondents to produce the body of petitioner's son namely Subburaj, S/o.Aandi, New Colony, Thamaraiikulam, Periyakulam Taluk, Theni District, who has been illegally detained in Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Arunkumar

For Respondents : Mr.K.Dinesh Babu

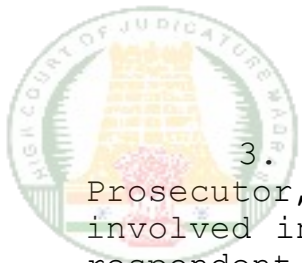
Additional Public Prosecutor

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the father of the detenu, namely, Subburaj, son of Andi, aged about 30 years, against the detention order passed by the second respondent, in Detention Order No.67/2020, dated 05.11.2020, branding him as "Sand Offender" as contemplated under Section 2(gg) of Tamil Nadu Act, 14 of 1982.

2. Mr.S.Arunkumar, learned counsel appearing for the petitioner would argue that the detention order impugned in this habeas corpus petition is liable to set aside on the sole ground of non application of mind on the part of the detaining authority while arriving at subjective satisfaction.



3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the petitioner is involved in adverse case of similar in nature and hence, the second respondent has rightly detained him under Act 14 of 1982 only to prevent the detenu from indulging in similar activities in future which is prejudicial to the maintenance of public order. According to the learned Additional Public Prosecutor, there is no illegality or irregularity in the order of detention passed by the second respondent warranting interference of this Court and hence, he prayed for dismissal of the Habeas Corpus Petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. A perusal of the detention order in vernacular language it is stated that the bail petition filed in the ground case in Cr.No.1922 of 2020, on the file of the Thenkarai Police Station in Cr.M.P.No.2117 of 2020 was pending before the learned Judicial Magistrate, Periyakulam, but the detaining authority has stated that there is a likelihood of the detenu for coming out on bail by filing bail petition. When the bail petition is already pending, there is no necessity to file a bail petition in the same case.

6. In the light of the above facts and circumstances, we are convinced that there is a lack of application of mind on the part of the detaining authority and hence, the impugned detention order is liable to be set aside.

7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Detention Order No.67/2020, dated 05.11.2020, is set aside. Consequently, the detenu, namely, Subburaj, son of Andi, aged about 30 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

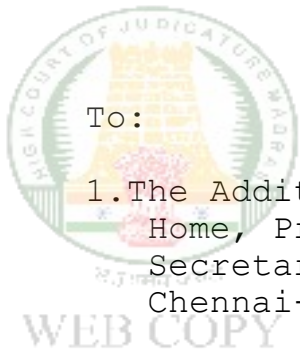
Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Theni District.
- 3.The Superintendent,
Central Prison,
Madurai.
4. The Joint Secretary to Government,
Public (Law &Order) Fort St.Goerge,
Chennai 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.100 of 2021
22.03.2021

SSS (CO)
KB(17.04.2021) 3P 6C