



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.442 of 2022

Solomon Sam Prabhakar

... Petitioner/Detenu

Vs.

1.State of Tamil Nadu

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed in No.25/BCDFGISSSV/2021 dated 28.05.2021 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Solomon Sam Prabhakar, S/o.Davidraj, aged about 26 years, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor.

O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the detenu, namely, Solomon Sam Prabhakar, S/o.Davidraj, aged about 26 years. The detenu has been detained by the second respondent by his proceedings in No.25/BCDFGISSSV/2021 dated 28.05.2021 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 appearing for the respondents. We have also perused the records produced by the Detaining Authority.

WEB COPY

3. The learned counsel for the petitioner would submit that the detention order has been passed without considering any materials which resulted in non-application of mind on the part of the detaining authority.

4. The detaining authority has observed that one Vallimanikandan, who is in connection with Crime No.16 of 2019 had filed a bail application before the Tirunelveli Principal District and Sessions Judge (In-charge) and he was granted bail on 11.03.2019 in Cr.M.P. No.2077 of 2019 and therefore, there is likelihood of the detenu in this case coming out on bail. Such an observation is nothing but non-application of mind on the part of the detaining authority.

5. Admittedly, the detenu has not moved any bail application. Therefore, merely because some other accused in some other crime number has been released on bail, the same cannot be a ground to hold that the detenu also likely to be released on bail, particularly, when the detenu has not even moved any bail application. It is also to be noted that a similar case theory cannot be applied mechanically. Bail is normally granted taking into consideration of facts and circumstances of each and every case.

6. In view of the above, we are of the view that there is a clear non-application of mind on the part of the detaining authority. The impugned detention order is, therefore, liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.25/BCDFGISSSV/2021 dated 28.05.2021 passed by the second respondent is set aside. The detenu, namely, Solomon Sam Prabhakar, S/o.Davidraj, aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rm



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.

WEB COPY

To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George,
Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.442 of 2022
31.03.2022

SJ(CO)
GC(19.04.2022) 3P 6C