



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and**

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1352 of 2021

WEB COPY

Anitha ... Petitioner/Wife fo the detenu

Vs.

- 1.State through Tamilnadu rep. by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records pertaining to the detention order passed by the second respondent in P.D.No.76/2021, dated 12.07.2021 and set aside the same as illegal and direct the Respondents to produce the body or person of the petitioner's husband namely Adaikkalam, S/o.Thangaraj, Male, aged about 36 years, who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.A.Joel Paul Antony
For Respondents : Mr.A.Thiruvadikumar
Addl. Public Prosecutor

O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the wife of the detenu, namely, Adaikkalam, S/o.Thangaraj, aged about 36 years. The detenu has been detained by the second respondent by his order in P.D.No.76/2021,

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



dated 12.07.2021, 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.

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

4. A perusal of the records would show that the detaining authority has considered the grant of bail to the similarly placed persons in Crime No.327 of 2017. Normally, bails are granted taking note of the facts and circumstances of the particular case. Therefore, the facts of the other case cannot be mechanically considered to the given case to pass orders. The Detaining Authority held that since in some other case bail was granted, the same would also apply to the present case and the detenu is likely to be enlarged on bail, which shows, clear non application of mind on the part of the Detaining Authority in passing the Detention Order.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.76/2021, dated 12.07.2021, passed by the second respondent is set aside. The detenu, namely, Adaikkalam, S/o.Thangaraj, aged about 36 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Fort St. George,
Chennai-9.
- 2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P (MD) .No.1352 of 2021
08.03.2022

NSN(CO)
TR(23.03.2022) 3P 6C