



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1421 of 2021

Perumal

... Petitioner/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,
Dindigul District,
Dindigul.

3.The Superintendent,
Central Prison,
Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the Detention Order No.18 of 2021, dated 29.04.2021, on the file of the second respondent and to quash the same and to direct the respondents to produce the body or in person of the detenu Perumal, aged 58, son of Thembadi, R.Kallupatti Village, Rajakkapatti Post, Siluvathur via, Dindigul East Taluk, Dindigul District, detained at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.T.Senthilkumar,

Addl. Public Prosecutor.

O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the detenu, namely, Perumal, S/o.Thembadi, aged about 58 years. The detenu has been detained by the second respondent by his order in Detention Order No.18 of 2021, dated 29.04.2021, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 by the similarly placed persons in Crime No.2 of 2021. 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 was also applied to the present case and the detenu is likely to be enlarged on bail, which shows the clear non application of mind on the part of the Detaining Authority in passing the Detention Order. Further, it is seen that the detention order as against the co-accused has been quashed by this Court in H.C.P (MD) No.1252 of 2021. Hence, on these grounds, the detention order is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.18 of 2021, dated 29.04.2021, passed by the second respondent is set aside. The detenu, namely, Perumal, S/o.Thembadi, aged about 58 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsn

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.

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



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

3.The Superintendent,
Central Prison,
Madurai.

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.

ORDER MADE IN
H.C.P (MD) .No.1421 of 2021
22.02.2022

PKP/03.03.2022/4P/6C