



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1975 of 2021

WEB COPY

Logeshwaran @ Logesh

... Petitioner / Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirappalli District. ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records relating to the detention order passed by the second respondent in Cr.M.P.No.37/2021, dated 28.08.2021 and quash the same and direct the respondents to produce the body or person of the detenu, namely, Logeswaran @ Logesh, S/o.Radhakrishnan, aged about 35 years now detained as 'Sexual Offender' at Tiruchirappalli Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.V.Vishnu
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

ORDER

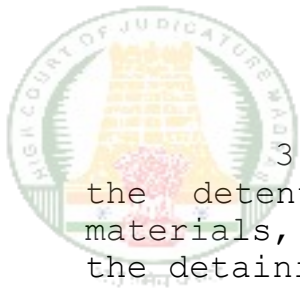
R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner is the detenu, namely, Logeswaran @ Logesh, S/o.Radhakrishnan, aged about 35 years. The detenu has been detained by the second respondent by his proceedings in Cr.M.P.No.37/2021, dated 28.08.2021 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 any materials, which resulted in non-application of mind on the part of the detaining authority.

WEB COPY

4.The detaining authority has observed that one Kamal Batcha alias Burma Kamal, who is in connection with Crime No.05 of 2018 had filed a bail application before the Sessions Judge, Mahila Court, Perambalur and he was granted bail on 15.02.2018 in Cr.M.P.No.76 of 2018 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 Cr.M.P.No.37/2021, dated 28.08.2021 passed by the second respondent is set aside. The detenu, namely, Logeswaran @ Logesh, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Myr

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.

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

3.The Superintendent of Prison,
Central Prison, Tiruchirappalli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD)No.1975 of 2021

27.04.2022

_SS/16.05.2022 : 3P/5C