



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.571 of 2018

Jothilingam

... Petitioner

Vs.

1. The State of Tamil Nadu,  
rep. by Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai 600 009.

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

3. The Superintendent of Prison,  
Special Prison for Women,  
Madurai.

4. The Inspector of Police,  
Sivakasi Town Police Station,  
Sivakasi, Virudhunagar District.

... Respondents

**PRAYER:** The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records relating to the Detention Order passed by the second respondent in No.Cr.M.P.No.04/2018, dated 03.04.2018 and quash the same and direct the respondents to produce the person or body of the detenu, Shanmugakani, W/o. (late) Ponnukalai, aged about 60 years, before this Court and set her at liberty. now detained at Special Prison for Women, Madurai.

For Petitioner

: Mr.S.Mahendrapathy

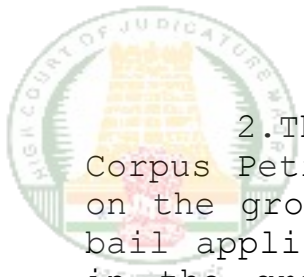
For Respondents

: Mr.V.Neelakandan, APP

### ORDER

**(Order of the Court was made by C.T.SELVAM,J.)**

The petitioner is the son of the detenu - Shanmugakani, W/o. (late) Ponnukalai. The detenu has been detained by the second respondent by the impugned Detention Order in Cr.M.P.No.04/2018 dated 03.04.2018, holding her to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.



2. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus on the ground that the Detaining Authority, in the absence of any bail application, having been moved towards release of the detenu in the ground case, has informed the possibility of the detenu released on bail and the same reflects total non-application of mind on the part of the Detaining Authority, which vitiates the order of detention.

3. We have considered the above submissions.

4. An identical issue was considered by a Division Bench of this Court in **T.Chitra Vs. State of Tamil Nadu**, reported in **2014 (2) MLJ Cr1 72** and the order of detention was set aside on the ground of non-application of mind. Hence, following the said order, the Detention Order, passed by the second respondent, in his proceedings in Detention Order in Cr.M.P.No.04/2018, dated 03.04.2018 is quashed. The detenu, namely, Shanmugakani, W/o. (late) Ponnukalai, is ordered to be set at liberty forthwith, if her detention is not required in connection with any other case.

5. In the result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai 600 009.
2. The District Collector and District Magistrate,  
Virudhunagar District, Virudhunagar.
3. The Superintendent of Prison,  
Special Prison for Women,  
Madurai.
4. The Inspector of Police,  
Sivakasi Town Police Station,  
Sivakasi, Virudhunagar District.
5. The Joint Secretary to Government,  
Public (Law and Order),  
Fort.St.George,  
Chennai - 9.



6.The Addl.Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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VB/SKN/SAR4/23.07.2018/3P/7C

**H.C.P. (MD) No.571 of 2018**  
**29.06.2018**