

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

H.C.P.No.2140 of 2019

Mariammal
W/o.Abdul Kani

... Petitioner

Vs

1.State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records of the detention order dated 21.08.2019 in No.519/BCDFGISSSV/2019 passed by second respondent and quash the same as illegal and consequently, direct the respondents to produce the petitioner's son/detenu Sadam Ushen, aged 27 years, S/o.Abdul Kani, before this Court and set him at liberty forthwith from Central Prison, Puzhal, Chennai.

For Petitioner : Mr.C.C.Chellappan
For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the mother of the detenu viz., Sadam Ushen S/o.Abdul Kani, aged 27 years, who has been branded as a 'Drug Offender' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in 519/BCDFGISSSV/2019 dated 21.08.2019.

2. The detenu came to adverse notice in Crime No.159 of 2019 on the file of B1 North Beach Police Station for offences u/s.294(b), 353 and 4(1)(a) of TNP Act. The alleged ground case has been registered against the detenu in Crime No.265 of 2019 on the file of B1 North Beach Police Station for offences u/s.8 (c) r/w 20(b)(ii)B of NDPS Act, 1985 and 4(1)(i) of TNP Act. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner mainly focussed his argument on the ground that the arrest of the detenu has been intimated to his wife through SMS. However, to establish the same, no proof has been produced, which would vitiate the detention.

5. We have heard learned Additional Public Prosecutor on the above submissions.

6. In the light of the fact that proper procedure has not been followed in intimating the arrest of the detenu to his wife, we have no hesitation in quashing the order of detention.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Sadam Ushen S/o.Abdul Kani, in 519/BCDFGISSSV/2019 dated 21.08.2019, is quashed. The above named detenu is ordered

to be set at liberty forthwith, unless his custody is required in connection with any other case.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600009.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2140 of 2019

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