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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2019

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.26 of 2019

Natarajan

... Petitioner

Vs.

1.State of Tamil Nadu, represented by
The Principal 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,
Ariyalur District, Ariyalur.

3.The Superintendent,
Central Prison, Tiruchirappalli.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records in detention order passed in Cr.M.P.No.31 of 2018, dated 19.12.2018, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner namely Natarajan, S/o.Pattusamy, male, aged 44 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.K.Dinesh Babu,

Additional Public Prosecutor.

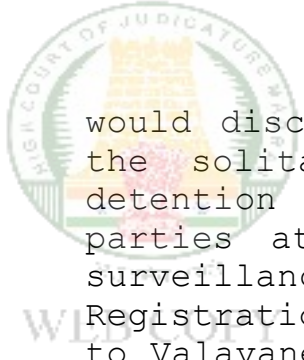
ORDER

(Order of the Court was made by M.SATHYANARAYANAN,J)

The detenu himself is the petitioner and challenging the impugned order of detention, dated 19.12.2018, passed by the second respondent, under Section 3(1) of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) and branded him as 'Sand Offender' in Cr.M.P.No.31 of 2018, has filed the present Habeas Corpus Petition.

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

2.A perusal of grounds of detention order dated 19.12.2018



would disclose that the order of detention came to be passed on the solitary case. It is further stated in the grounds of detention that according to the sponsoring authority, the police parties attached to Meensurutti Police Station was engaged in surveillance, they noted a TATA Pick Up four wheeler bearing Registration No.TN-32-D-0511 came on that way from Kanjangkollai to Valavaneri and the accused did not stop the vehicle on the spot and after some distance, he stopped the vehicle and thereafter, the driver of the vehicle escaped and the vehicle was examined and it was containing one unit of sand. The driver of the vehicle was apprehended and contraband was brought to the custody of the Police Station and a case in Crime No.265 of 2018 was registered for the commission of offences under Section 21(i) Mines and Minerals (Development and Regulation) Act, 1957.

3.When the detenu/driver of the vehicle was enquired, who later on apprehended on 11.11.2018, voluntarily came forward to give a confession statement and subsequently, produced before the Court of Judicial Magistrate No.II, Jeyankondam for remand and he was remanded to judicial custody on 23.11.2018 and the remand period was periodically extended upto 21.12.2018.

4.The detaining authority, on being satisfied with the materials placed by the sponsoring authority that the quarrying of the illicit sand mining continued in a prohibited place, it would affect the drinking water supply from the wells and activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by the petitioner.

5.The learned Counsel appearing for the petitioner would draw the attention of this Court to page Nos.19 and 20 of the booklet and would submit that though the arrest intimation of the detention in connection with the ground case was said to have been given in mobile number, wherein Mobile No.8012668200, the person to whom message was sent to the said mobile number has not been identified and the signature of the concerned person has also not been obtained, comes in violation of **D.K.Basu Vs. State of West Bengal** reported in **AIR (1997) SC 610** and as such, the impugned order of detention is liable to be quashed.

6.Per contra, the learned Additional Public Prosecutor would submit that the detaining authority, after due and proper application of mind, has rightly clamped the order of detention and hence, prays of dismissal of the Habeas Corpus Petition.

7.This Court has considered the rival submissions and also perused the materials placed before it.



8.As rightly pointed out by the learned counsel appearing for the petitioner, perusal of page No.20 of the booklet would disclose that though the arrest intimation was given to his wife/Kavitha through Mobile No.8012668200, neither the text of the intimation given nor the signature of the person, has been found place and the same is in violation of **D.K.Basu Vs. State of West Bengal** reported in **AIR (1997) SC 610** and hence, on the sole ground, the impugned order of detention is liable to be quashed.

9.In the result, this Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.31 of 2018, dated 19.12.2018 passed by the second respondent, is quashed and the detenu namely Natarajan, S/o.Pattusamy, is directed to be set at liberty forthwith, unless his remand/detention is required, in accordance with law, in connection with any other case/proceedings.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Principal Secretary to Government,
Rep. By the State of Tamil Nadu,
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,
Ariyalur District, Ariyalur.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

4.The Joint Director Public (Law&Order)
Fort.St.George, Chennai-9

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

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