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H.C.P(MD)No.243 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

H.C.P (MD)No.243 of 2019

Mumtaj Begam

...Petitioner

Vs.

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Thiruvallur District,Thiruvallur.

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

...Respondents

PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the second respondent in B.C.D.F.G.I.S.S.S.V.No.16 of 2019, dated 23.2.2019 and to quash the same and direct the respondents to produce the body or person of the detainee by name Mohammed Aseen, Son of Yusub, aged about 36 years, now detained in Tiruchirappalli Central Prison before this Court and set him at liberty forthwith.

For Petitioner

:Mr.Abdul Rahman

For Respondents

: Mr.K.Dinesh Babu
Addl. Public Prosecutor

O R D E R

S.VAIDYANATHAN, J.

AND

N.ANAND VENKATESH, J.

The present Habeas Corpus Petition is directed against the Detention Order passed by second respondent in B.C.D.F.G.I.S.S.S.V.No.16 of 2019, dated 23.2.2019.



2.The Sponsoring Authority had recommended for the detention of the Petitioner under Act 14 of 1982 after the Petitioner was arrested for a solitary incident. The Detaining Authority has branded the detenu as a ''Goonda'' and has passed the Detention order, dated 23.2.2019.

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3.The learned counsel for the Petitioner submitted that there was only a solitary case against the detenu which was registered in Crime No.28 of 2019 for the offence under Section 147,148, and 302 of IPC. The learned counsel submitted that in the entire Detention Order, the Detaining Authority has not even stated anything referring to the subjective satisfaction of the imminent Possibility of the detenu coming out on bail. For this purpose, the learned counsel for the Petitioner brought to the notice of this Court para 5 of the Detention Order.

4.Heard the learned Additional Public Prosecutor appearing on behalf of the respondents and perused the materials available on record.

5.We have carefully gone through the Detention Order. The Detention order speaks about the solitary case that has been registered against the Detenu. In paragraph No.5 of the order, it is stated that the detenu is in judicial custody and he has not filed any bail petition. After having stated so, the Detention Order does not anywhere whisper regarding the subjective satisfaction on the detenu coming out on bail. This clearly reflects non application of mind and vitiates the entire Detention Order.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in B.C.D.F.G.I.S.S.S.V.No.16 of 2019, dated 23.2.2019 passed by the second respondent is set aside. The detenu, namely, Mohammed Aseen, son of Yusub, aged about 36years, is directed to be released forthwith unless his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

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



2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Thiruvallur District,Thiruvallur.

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

4.The Joint Secretary to Government,
Public (LAW and Order),
Fort St.George,
Chennai - 600 009.

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

ORDER MADE IN
H.C.P (MD) No.243 of 2019
05.09.2019

CS(20.09.2019) 3P 6C