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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.2 of 2020

Vijaya

... Petitioner/Sister
of the Detenu

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Secretariat,
Chennai - 600 009.

2.Commissioner of Police,
Greater Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in connection with the order of Detention passed by the second respondent dated 04.12.2019 in Memo No.831/BCDFGISSSV/2019 against the Petitioner's brother Kamaraj, male aged 39 years, S/o.Radhakrishna Pillai, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the Respondents to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents: Mr.R.Prathap Kumar,
Additional Public Prosecutor.

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.The Petitioner's brother has come before this Court challenging the detention order passed against his brother by the second respondent in Memo No.831/BCDFGISSSV/2019 dated



04.12.2019, branding him as 'Drug Offender'.

3. Heard Mr.S.Senthilvel, learned Counsel appearing for the Petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4. It is seen from the records that the detenu has been detained under Goondas Act for a solitary case of drug offence. Further, it is seen that though the detaining authorities have quoted a similar case in which bail has been granted, the alleged similar case is not similar in nature and therefore, there is lack of application of mind on the part of the detaining authorities in passing the detention order and therefore the detention order is vitiated and this petition has to be necessarily allowed.

5. Accordingly, the detention order passed by the second respondent in Memo No.831/BCDFGISSSV/2019 dated 04.12.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., Kamaraj, male aged 39 years, S/o.Radhakrishna Pillai, who is detained at Central Prison, Puzhal - I, Chennai is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar (CO-MDU)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Home, Prohibition and Excise Dept.,
Secretariat,
Chennai - 600 009.

2. Commissioner of Police,
Greater Chennai.

3. The Superintendent of Prison,
Central Prison, Puzhal - I,
Chennai.

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



5.The Additional Public Prosecutor,
High Court of Madras,
Chennai.

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