

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2020

CORAM :

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

H.C.P.NO.16 OF 2020

Sasikala

... Petitioner

Vs

1. The Additional Chief Secretary to Government,  
Home, Prohibition & Excise Department,  
Secretariat,  
Chennai - 600 009.
  2. The District Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
Ariyalur District.
- ... Respondents

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the entire records connected with the detention order in Cr.M.P.No.39/2019 dated on 07.12.2019 on the file of the Respondent No.2 and quash the same and direct the Respondents to produce the body and person of the Petitioner's son one named Thiru Arun S/o.Annadurai aged about 30 years now confined at Central Prison, Thiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Mohamed Saifullah.

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

ORDER

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

The matter was heard through "Video Conferencing".

2.The wife of the detenu has filed this Petition challenging the detention order passed against her husband in Cr.M.P.No.39/2019 dated 07.12.2019 by the Second Respondent as the detenu has got a solitary case registered against him for the offence under Section 302 of Indian Penal Code.

3.Heard Mr.M.Mohamed Saifullah, learned Counsel appearing for the Petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4.The learned Counsel for the Petitioner submitted that the statutory provisions have not been complied by the detaining authority while passing the detention order. However, the learned Additional Public Prosecutor opposed the same.

5.It is seen from the records that as per Section 8 (1) of the Tamil Nadu Act 14 of 1982, the booklet has to be served within five days whereas it is seen that though the detention order was passed on 07.12.2019, the booklet was served only on 17.12.2019 which violates the mandatory provision. Therefore, the detention order passed by the second respondent is vitiated.

6.Accordingly, the detention order passed by the Second Respondent in Cr.M.P.No.39/2019 dated 07.12.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., Thiru Arun S/o.Annadurai aged about 30 years who is confined at Central Prison, Thiruchirappalli is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary to Government,  
Home, Prohibition & Excise Department,  
Secretariat,  
Chennai - 600 009.
2. The District Collector and District Magistrate,  
Office of the District Collector and District Magistrate,  
Ariyalur District.
3. The Superintendent of Prison,  
Central Prison,  
Thiruchirappalli.
4. The Public Prosecutor,  
High Court of Madras,  
Chennai.

5. The Joint Secretary to Government,  
Fort St.George, Chennai-9.

H.C.P.No.16 of 2020

AD(CO)  
CS/30/07/2020



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