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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KI RUBAKARAN
AND
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.38 of 2020

Nagaraj ... Petitioner/Father of the Detenu

Vs

1.The Secretary to Government,
Home Prohibition & Excise Department,
Secretariat, Fort St George,
Chennai - 600 009.

2.The Commissioner of Police,
Salem City.

...Respondents

PRAYER : 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 09.12.2019 in C.M.P.No.56/Goonda/Salem City/2019 against the Petitioner's son Kadir @ Kathiresan, male aged 25 years, S/o.Nagaraj, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.Mohana Krishnan.

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 is heard through video-conferencing.

2.The father of the detenu viz., Kadir @ Kathiresan, male aged 25 years, S/o.Nagaraj is challenging the detention order made in C.M.P.No.56/Goonda/Salem City/2019 dated 09.12.2019 by the second Respondent, terming him as 'GOONDA'.



3. Heard Mr. Mohana Krishnan, learned Counsel appearing for the Petitioner and Mr. R. Prathap Kumar, learned Additional Public Prosecutor appearing for the respondents.

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4. The learned Counsel appearing for the Petitioner would submit that there is only one adverse case registered against the detenu. He would further submit that though he was arrested on 29.10.2019, the detention order was passed only on 09.12.2019. Hence, there is a delay in passing the detention order. He would further submit that the similar case referred by the detaining authorities regarding the possibility of coming out of bail is not similar in nature and the relatives of the detenu have not been informed by the police about the arrest of the detenu. Hence, he prays for quashing the detention order. However, the learned Additional Public Prosecutor opposed the contentions made by the learned Counsel for the Petitioner.

5. Considering the fact that there is a delay in passing the detention order as the detenu was arrested on 29.10.2019 and detention order was passed only on 09.12.2019 and since the respondent police has not informed about the arrest of the detenu to his relatives, this Court is inclined to quash the detention order and allow the petition.

6. Accordingly the detention order passed by the second respondent in C.M.P.No.56/Goonda/Salem City/2019 dated 09.12.2019 is quashed. The detenu viz., Kadir @ Kathiresan, male aged 25 years, S/o. Nagaraj, who is confined in Central Prison, Salem is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

7. In the result, the Habeas Corpus Petition is allowed.

Sd/-
Assistant Registrar (CO MDU)

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Sub Assistant Registrar

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