

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.No.188 of 2020

K.Priya

... Petitioner/Wife of the Detenu

Vs

1.The State of Tamil Nadu

Rep.by the Secretary to the Government,
Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,

Greater Chennai City,
Vepery, Chennai - 600 007.

.... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus to produce the husband of the petitioner Kicha @ Krishnamurthy, S/o.Subbarayan, aged 32 years before this Court, now confined in the Central prison, Puzhal, Chennai and set him at liberty and to call for the records pertaining to the Memo No.862/BCDFGISSSV/2019 dated 12.12.2019 and set aside the same.

For Petitioner :Mr.M.Appajicharles Kamalesh.

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 Conference".

2.The Petitioner who is the wife of the detenu has challenged the detention order passed against the detenu in Memo No.862/BCDFGISSSV/2019 dated 12.12.2019 by the Second Respondent, terming him as 'Drug Offender' under Section 2 (e) of Tamil Nadu Act 14 of 1982 based on the ground case registered

against him. It is also brought to the notice of this Court that the detenu has also got 13 previous cases and out of the said cases, one case has been registered for the offence under Section 302 of Indian Penal Code.

3.Heard Mr.M.Appajicharles Kamalesh, 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 there was a delay in passing the Detention Order. Though the Detenu was arrested on 21.10.2019, the Detention Order was passed only on 12.12.2019 and the same vitiates, the detention order. Hence, this petition has to be necessarily allowed.

5.Accordingly, the detention order passed by the Second Respondent in Memo No.862/BCDFGISSSV/2019 dated 12.12.2019 is quashed. The detenu viz., Kicha @ Krishnamurthy, S/o.Subbarayan, aged 32 years before this Court, now confined in the Central prison, Puzhal, Chennai is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

6.On technical grounds only, the detention order has been quashed by this Court. The very purpose of detention is to prevent the detenu from repeating offences and that public safety is ensured. Since this Court has quashed the detention order, in the interest of public and in the interest of justice, this Court is justified in directing the detenu to appear before the jurisdictional Police Station, every Monday at 11.00 A.M., till 11.12.2020. The very purpose of this direction is to ensure that the detenu does not repeat the commission of offence and that the police can also have a watch over the movement of the detenu, even if he is outside the prison. Accordingly, this petition is allowed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar

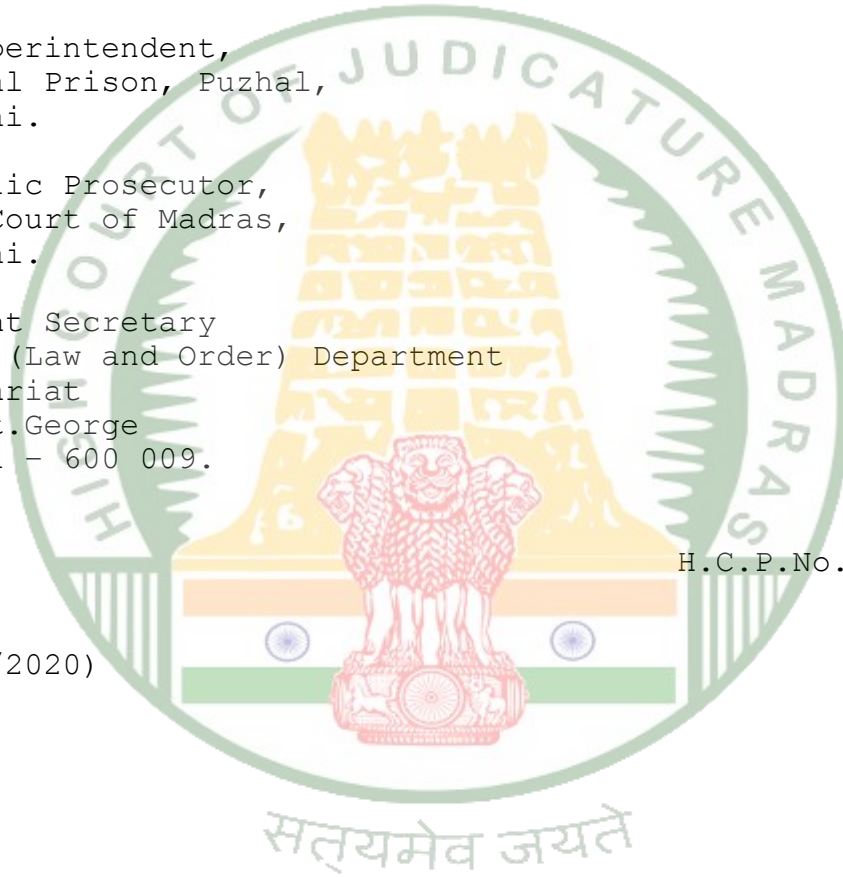
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To

- 1.The State of Tamil Nadu
Rep.by the Secretary to the Government,
Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai - 600 007.
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai.
- 5.The Joint Secretary
Public (Law and Order) Department
Secretariat
Fort St.George
Chennai - 600 009.

H.C.P.No.188 of 2020

RSV(CO)
GMY(16/09/2020)



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