

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM :

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

H.C.P.No.376 of 2020

S.Sankar

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department, (Home),
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
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, calling for the records relating to the detenu's detention order passed by the 2nd respondent dated 11.12.2019 in BCDFGISSSV No.861/2019 and set aside the same and produce the detenu S.Suresh male aged about 25, Son of Sankar now detained in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.S.Balasubramaniam.

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 Father of the detenu has challenged the detention order passed against the detenu in BCDFGISSSV No.861/2019 dated 11.12.2019 by the Second Respondent as he has got five adverse cases registered against him apart from the ground case.

3.Heard Mr.S.Balasubramaniam, 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 a similar case referred in the grounds of detention is not similar in nature as Section 323 of Indian Penal Code which is included in the ground case is not present in the referred similar case 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 BCDFGISSSV No.861/2019 dated 11.12.2019 is quashed and the Habeas Corpus Petition is allowed. The detenu viz., S.Suresh male aged about 25, Son of Sankar, who is confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department, (Home),
Secretariat,
Chennai 600 009.

2.The Commissioner of Police,
Chennai City,
Vepery, Chennai - 600 007.

3.The Superintendent of Prison,
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.376 of 2020

A.SK(04/09/2020)