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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.2604 of 2019

Vanaroja, F/47,
W/o.Chinnapaiyan,
No.3/8A, Ambethkar Old Colony,
Jagadevi, Jagadevipalayam,
Krishnagiri District.

... Petitioner/
Mother of the detainee

-vs-

State Rep. by:

1.The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai 9.

2.The District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in S.C.No.28/2019 dated 30.10.2019 on the file of the District Collector and District Magistrate, Krishnagiri District, Krishnagiri, the second respondent herein and quash the same as illegal and direct the respondent to produce the detainee Akil @ Akilan, S/o.Annadurai aged about 23 years, now confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr.S.Rajanikanth

For Respondents : Mr.R.Prathap Kumar
Additional Public prosecutor



O R D E R

(Order of the Court was delivered by N.KIRUBAKARAN, J.)

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The petitioner's son has been detained under the Provisions of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act 1982 (in short Tamil Nadu Act 14/1982) by virtue of order dated 30.10.2019.

2.The petitioner's son has two adverse cases and one ground case for the offences punishable u/s.436, 506 (ii) of Indian Penal Code on the file of Krishnagiri Taluk Police Station in Cr.No.509/2019. It is stated in the detention order that due to previous enmity the petitioner's son has lit the beer bottle which was filled with petrol and has thrown it over the house of the complainant viz., Mr.Kemban and therefore, he was arrested on 16.09.2019 and remanded to judicial custody. He was also arrested in the adverse cases on 27.09.2019 through P.T.warrant. Thereafter, he was detained under the Tamil Nadu Act 14/1982 on 30.10.2019.

3.Heard Mr.S.Rajanikanth, learned counsel appearing on behalf of the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor.

4.The learned counsel appearing on behalf of the petitioner would submit that there is a delay of 14 days in passing the detention order, since he was arrested as early as on 16.09.2019. Secondly, he would submit that the information regarding arrest of the detenu has not been communicated either to the petitioner or to the close relative/friend of the detenu as mandated under Section 50A of the Cr.P.C. Therefore, the learned counsel for the petitioner would contend that the detention order has to be quashed. However, the learned Public Prosecutor would oppose the case of the petitioner.

5.Though the learned Additional Public Prosecutor would submit that the arrest of the detenu has been communicated through SMS, there is no proof for having sent the said SMS either to the next relative or friend and therefore, the detention order is vitiated and this petition is liable to be allowed.



6. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent on 30.10.2019 in S.C.No.28/2019 is hereby set aside. The detenu, viz., Mr.Akil @ Akilan, S/o.Annadurai, aged about 23 years, who is now confined at Central Prison, Salem is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai 9.

2.The District Collector and District Magistrate,
Krishnagiri District,
Krishnagiri.

3.The Superintendent
Central Prison, Salem

4.The Joint Secretary to Government
Public Law & Order
Fort St.George Chennai-9

5.The Public Prosecutor High Court Madras

H.C.P.No.2604 of 2019

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