

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.6.2020

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

H.C.P.No.2709 of 2019

Prabhakaran

...Petitioner

Vs

1. The Secretary to Government,
Government of India, Ministry
Of Home Affairs, Department of
Internal Security, North Block,
New Delhi-1.
2. The Lieutenant Governor,
Rajnivas, Puducherry.
3. The District Magistrate-cum-
Authorized Officer, office of the
District Magistrate, I Floor,
Vazhadhavor Road,
Kavundanpalayam, Puducherry-9.

...Respondents

PRAYER: PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order in No.09/DM/RO/D2/PPASAA/2019 dated 25.10.2019 passed by the third respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010), set aside the same and direct the respondents to produce the petitioner's cousin brother Mr.Sugu (a) Sugumar, S/O Elumalai, aged about 34 years, the detenu, now confined in the Central Prison, Kalapet, Pudhucherry before this Court and set the petitioner's cousin brother Mr.Sugu (a) Sugumar, S/O Elumalai, aged about 34 years, the detenu, at liberty.

For Petitioner : Mr.Gopi Krishnan

For Respondent-3 : Mr.Baratha Chakravarthy,
Public Prosecutor, Pondicherry.

O R D E R

(Order of the Court was made by T.S.SIVAGNANAM,J)

The detenu is the cousin brother of the petitioner. This habeas corpus petition has been filed by the petitioner challenging the detention order dated 25.10.2019 passed by the third respondent against the detenu Mr.Sugu (a) Sugumar, S/O Elumalai under the Puducherry Prevention of Anti-Social Activities Act (Act 10 of 2010).

2. We have elaborately heard Mr.Gopi Krishnan, learned counsel for the petitioner and Mr.Baratha Chakravarthy, learned Additional Public Prosecutor appearing for the third respondent and carefully perused the materials on record and the grounds in this petition.

3. We find that in paragraph 10 of the grounds of detention, it has been observed that the detenu moved a bail application, for the case, in which, he was detained, before this Court in CrI.O.P.No.706 of 2019 and that the bail was granted on 24.10.2019. It is not disputed by the learned Additional Public Prosecutor appearing for the third respondent that there was no material placed in the booklet to show that the petitioner moved a bail petition before this Court and that the bail was granted by this Court even before passing the order of detention on 25.10.2019. This would show the non application of mind on the part of the Detaining Authority and the non furnishing of the documents relied upon is fatal to the impugned order of detention, which would be sufficient to quash the order of detention.

4. Accordingly, the above habeas corpus petition is allowed, the order of detention dated 25.10.2019 is set aside and the detenu - Thiru.Sugu (a) Sugumar, S/O Elumalai, is directed to be set at liberty forthwith unless his detention is otherwise required in connection with any other case.

Sd/-

Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

RS/ASR

To

- 1.The Secretary to Government, Government of India, Ministry Of Home Affairs, Department of Internal Security, North Block, New Delhi-1.
- 2.The Lieutenant Governor, Rajnivas, Puducherry.
- 3.The District Magistrate-cum- Authorized Officer, office of the District Magistrate, I Floor, Vazhadhavor Road, Kavundanpalayam, Puducherry-9.
- 4.The Chief Superintendent Central Prison, Kalapet, Puducherry.
- 5.The Public Prosecutor, Pondicherry, High Court, Madras.

H.C.P.No.2709 of 2019

SSV(CO)
KKV/17/06/2020



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