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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM :

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

H.C.P.No.2756 of 2019

Dhatchayani, F/A, 40 years,
W/o.Saravanan,
Pudu Theru, Pudupalayam,
Cuddalore Town,
Cuddalore District. ... Petitioner/Wife of the Detenue

Vs

1.The Secretary to the Government,
Home, Prohibition and Excise Dept.,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 28.11.2019 on the file of the second respondent herein made in proceedings C3/D.O./105/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Saravanan, S/o.Balu @ Balakrishnan, aged 27 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner :Mr.R.Sasikumar

For Respondent :Mr.R.Prathap Kumar,
Additional Public Prosecutor.



O R D E R

(Order of the court was made by MRS.R.HEMALATHA.J.,)

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Challenge is made to the Order of detention passed by the second respondent viz., the District Collector and District Magistrate, Cuddalore District vide Order dated 28.11.2019 in C3/D.O./105/2019, whereby the husband of the petitioner, Saravanan, S/o.Balu @ Balakrishnan, aged 27 years was ordered to be 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).

2.Heard Mr.R.Sasikumar, learned counsel appearing on behalf of the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor.

3.Mr.R.Sasikumar, learned counsel appearing on behalf of the petitioner contended that as per Section 8 of the Tamil Nadu Act 14/1982, when a person is detained in pursuance of the detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him / her, the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government. His specific contention is that as far as the present case is concerned, Order of detention was served after seven days and therefore, the same is liable to be quashed. He also relied on the following decisions (i) Mageswari vs. The Government of Tamil Nadu, Rep. by its Secretary and another reported in 2011 (1) MWN (Cr.) 599 (DB) and (ii) Govindammal, W/o.Anandhan vs. The Commissioner of Police, Commissioner Office-Greater Chennai, Egmore, Chennai-8 reported in 2011 (1) MWN (Cr.) 560 (DB) wherein it has been held that Section 8 of the Tamil Nadu Act 14/1982 requires the detaining authority to serve grounds of detention upon detenu not later than 5 days from the date of detention. Admittedly, in the present case, the grounds of detention was served later than 5 days from the date of detention as stated in Section 8 of the Tamil Nadu Act 14/1982. Hence, there is a clear violation of mandatory provisions of Section 8 of the Act.

4.Accordingly, this petition is allowed by setting aside the order of detention passed by the second respondent in proceedings No.C3/D.O./105/2019 dated 28.11.2019 and the detenu is directed to be set at liberty forthwith, unless his detention



is required in connection with any other case. It is also made clear that this order will not affect the criminal case pending against the detenu.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Dept.,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
- 3.The Superintendent,
Central Prison, Cuddalore.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court,
Madras 104.

H.C.P.No.2756 of 2019

kj[co]
srg 15/07/2020