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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P.(MD) No.236 of 2020

Muthukumar ... Petitioner/Father of the Detenu
-vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Tiruchirappalli City,
Trichy.

3.The Inspector of Police,
K.K.Nagar Police Station,
Tiruchirappalli City.

4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus directing the respondents to produce the person or body of the detenu namely Jegan @ Jegadeesan, aged about 26 years, son of Muthukumar before this Court, who is now detained in the Central Prison, Tiruchirappalli in pursuant to the Detention Order passed by the second respondent in C.No.05/Detention/C.P.O/T.C.2020, dated 24.2.2020 and to call for the records and quash the same and release the detenu at liberty forthwith.

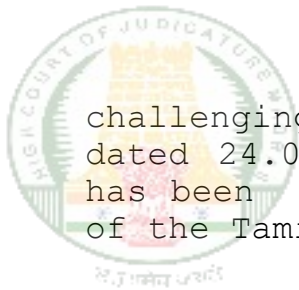
For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the father of
<https://hcservices.e-courts.gov.in/hcservices/> namely, Jegan @ Jegadeesan, aged about 26 years,



challenging the Detention Order passed by the second respondent dated 24.02.2020 in C.No.05/Detention/C.P.O/T.C/2020, wherein, he has been branded as 'Goonda', as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Mr.N.Mohideen Basha, learned counsel appearing for the Petitioner would argue that though several grounds has been raised to assail the impugned Detention Order, he confines his argument with regard to the non-application of mind on the part of Detaining Authority to reach the subjective satisfaction to clamp the order of detention. It is the submission of the learned counsel for the Petitioner that the detenu was arrested on 8.2.2020 and he was remanded to judicial custody by an order of the Judicial Magistrate No.II, Tiruchirappalli till 21.02.2020. Though in the Detention Order, it is stated that the remand of the detenu has been extended till 3.3.2020, there is no material available on record to reach the said conclusion and prays to allow the Habeas Corpus Petition.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents would state that the Detention Order has been passed by the second respondent taking note of the antecedents of the Petitioner and after satisfying with the cogent and relevant materials produced by the sponsoring Authority. According to the learned Additional Public Prosecutor, there is no illegality or irregularity in the Detention Order, warranting interference by this Court and prays to dismiss the Habeas Corpus petition.

4.Heard both sides and perused the materials available on record.

5.In the instant case, a perusal of the typed-set of papers would show that the detenu was arrested by the third respondent in Cr.No.45 of 2020, for the offence punishable under Sections 393, 397 and 506(ii) of IPC by an order of the learned Magistrate, dated 8.2.2020 and he was remanded to judicial custody upto 21.2.2020. As rightly pointed out by the learned counsel for the Petitioner when the Detention Order states that the remand of the detenu was extended till 3.3.2020, but there is nothing on record to show the extension of the remand of the detenu till 3.3.2020. This indicates lack of non-application of mind of the Detaining Authority while passing the Detention Order against the detenu. Hence, in our considered view, the detention order is liable to be set aside on this ground.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in C.No.05/Detention/C.P.O/T.C/2020, dated 24.02.2020 passed by the second respondent, is set aside. Consequently, the detenu, namely, Jegan @ Jegadeesan, son of



Prison, Tiruchirappalli is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (Crl side)

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Sub Assistant Registrar(CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Police,
Tiruchirappalli City,
Trichy.
- 3.The Inspector of Police,
K.K.Nagar Police Station,
Tiruchirappalli City.
- 4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 5.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George, Chennai-600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.236 of 2020
13.10.2020

VM(CO)

https://hservices2.courtsgovtamilnadu.org/hservices3P_7C