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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.458 of 2020

Suseela

... Petitioner

-vs-

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

3.The Superintendent of Police,
Central Prison,
Trichy,
Trichy District.

... Respondents

PRAYER: The Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records pertaining to the detention order in P.D.No.57/2019 dated 26.12.2019 passed by the second respondent and set-aside the same by setting the detenu by name Ashok, S/o. Rajamanickam aged about 29 years at his liberty, now detain at Central Prison Trichy.

For Petitioner : Mr.K.Sivabalan

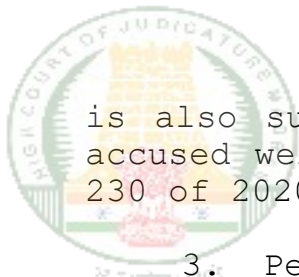
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Challenging the detention order passed by the second respondent, dated 26.12.2019, made in P.D.No.57/2019, the mother of the detenu viz., Ashok, S/o.Rajamanickam, has filed this Habeas Corpus Petition.

2. Though several grounds have been raised to assail the impugned detention order, it is mainly contended by the learned counsel for the petitioner that there was no proper intimation of arrest of the detenu either to his family members or his relatives. Hence, on this sole ground, the order is liable to be set aside. It



is also submitted that the detention order passed against the co-accused were set aside by this Court in H.C.P.(MD).Nos.227, 228 and 230 of 2020 on 04.08.2020.

3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would submit that the detention order came to be passed by the second respondent on satisfying with the cogent and relevant materials furnished by the sponsoring authority and therefore, there is no illegality and irregularity. It is also stated that the arrest of the detenu was duly intimated to his relatives and prayed to dismiss the Habeas Corpus Petition.

4. In the instant case, a perusal of the booklet at page No.70, it is seen that the arrest of the detenu has been informed to his friend Dinesh through cellphone No.9585154357, but nothing is on record to show that the cellphone number belongs to his friend. Further, the text message is also not found in the booklet.

5. We are of the opinion that there is no proper intimation of arrest of the detenu to his family members in violation of the directions issued by the Honourable Apex Court in the case of ***D.K.Basu vs. State of West Bengal***, reported in ***AIR (1997) SC 610***.

6. In the light of the above facts, the order of detention passed by the second respondent, in P.D.No.57/2019 dated 26.12.2019, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Ashok, S/o.Rajamanickam, aged about 29 years, now detained at Central 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 (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
- 3.The Superintendent of Police,
Central Prison,
Trichy,
Trichy District.
- 4.The Joint Secretary to Government,
Public(Law & Order),Fort Saint George,Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.458 of 2020
31.08.2020

AP(10/09/2020) 3P 6C