



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2020

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR. JUSTICE B.PUGALENDHI**

H.C.P. (MD) No.663 of 2019

Kumari

: Petitioner

Vs.

1.The Principal Secretary to Government
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Chennai-9.

2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate,
Kanyakumari District at Nagercoil.

3.The Superintendent of Prison
Palayamkottai Central Prison,
Tirunelveli District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the respondent NO.2 in P.D.No.24/2019 dated 09.07.2019 and quash the same and direct the respondents to produce the detenu by name Sukumaran @ Sullan, son of Ayyappan, aged about 26 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner

: Mr.R.Vinoth Bharathi

For Respondents

: Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

The petitioner is the mother of the detenu viz., Sukumaran @ Sullan, S/o.Ayyappan, aged about 26 years. The detenu has been detained, as per the order of the second respondent, dated 09.07.2019 under Section 2(e) of the Tamil Nadu Act 14 of 1982, branding him as "Drug offender". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.



2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. It is seen that the adverse case in Crime No.49/2019 for offence under Sections 341, 294(b), 324, 323 and 307 IPC is said to have occurred on 10.02.2019 and the ground case is for the possession of 2 Kgs. of Ganja on 18.06.2019 punishable under the NDPS Act. In the grounds of detention, in Paragraph No.8 of the grounds of detention, both in English as well in Tamil, the detaining authority has stated as follows:

"8. Hence I am satisfied that the accused Thiru. Sukumaran @ Sullan is a notorious criminal and he is committing grave crimes by violating the Narcotic Drugs and Psychotropic Substances Act, 1985 prejudicial to the maintenance of public health and public order."

4. A reading of the above shows that the detaining authority has arrived at a subjective satisfaction that the detenu has been regularly involving in NDPS offences, whereas, apart from the ground case, there is no other case against the detenu under the NDPS Act. This, in our opinion, shows non application of mind on the part of the detaining authority. Hence, on this sole ground, the detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in Detention Order in P.D.No.24/2019 dated 09.07.2019 is quashed. The detenu, namely Sukumaran @ Sullan, S/o. Ayyappan, aged about 26 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Chennai-9.



2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate,
Kanyakumari District at Nagercoil.

3.The Superintendent of Prison
Palayamkottai Central Prison,
Tirunelveli District.

4.The Joint Secretary,
Public (Law & Order) Dept,
Fort St.George, Chennai-9

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
H.C.P. (MD) No.663 of 2019
Dated: 09.03.2020

RR
TK/SAR./18.03.2020/3P/6C