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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2020
CORAM

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

H.C.P(MD)No.757 of 2019

Bala @ Kusumbu Bala @ Balakrishnan

... Petitioner

Vs.

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

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order of the second respondent in Cr.M.P.No.16/Goonda/2019, dated 03.08.2019 and quash the same and direct the respondents to produce the body or person of the detenu, by name, Bala @ Kusumbu Bala @ Balakrishnan, son of Selvaraj, aged about 30 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 detenu viz., Bala @ Kusumbu Bala @ Balakrishnan, son of Selvaraj, aged about 30 years. The detenu has been detained, as per the order of the second respondent, dated 03.08.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petititoner is before this Court with this Habeas Corpus Petition.



2. The petitioner was arrested on 13.07.2019 in the ground case in Cr.No.336 of 2019 on the file of Sivaganga Town Police Station, for the offences under Sections 392, 397 and 506(ii) I.P.C., and the detention order was passed on 03.08.2019. He gave representations on 06.08.2019 through the prison authorities to the Government, the detaining authority and the Advisory Board. The detaining authority considered the representation of the petitioner and rejected the same. However, the representation that was given to the Government was not forwarded to the Government by the detaining authority till date and therefore, the petitioner has lost an effective remedy under the Tamil Nadu Act 14 of 1982. In such view of the matter, the detention order is liable to be quashed.

3. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in Cr.M.P.No.16/Goonda/2019, dated 03.08.2019. Consequently, the detenu, namely, Bala @ Kusumbu Bala @ Balakrishnan, Son of Selvaraj, aged about 30 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case/proceedings.

Sd/-
Assistant Registrar

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/ /2020
Sub Assistant Registrar

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Sivagangai District,
Sivagangai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4 The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai-600 009



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

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20.03.2020

SML

JM/12.05.2020/3P/6C