



WEB COPY

H.C.P.(MD)No.791 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD)No.791 of 2019

Narayanan @ Undiyal Narayanan
@ Thellanthi Narayanan

: Petitioner

Vs.

1.State of Tamil Nadu

rep. by the Secretary to Government
Home, Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector and District Magistrate
Kanyakumari District at Nagercoil.

3.The Superintendent of Prison
Central Prison, Palayamkottai
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 passed in P.D.NO.26/2019 dated 24.07.2019 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Narayanan @ Undiyal Narayanan @ Thellanthi Narayanan, aged about 70 years, S/o.Kochuraman Nadar, now detained at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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

ORDER

(Order of the Court was made by B.PUGALENDHI, J.)

The petitioner is the detenu viz., Narayanan @ Undiyal Narayanan @ Thellanthi Narayanan, S/o.Kochuraman, aged about 70 years. The detenu has been detained, as per the order of the second respondent, dated 09.07.2019 under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petititoner/detenu is before this Court in this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/>



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.

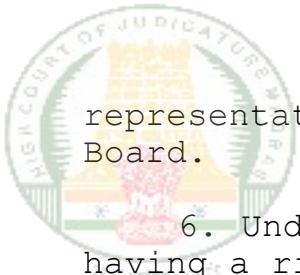
3.A perusal of the Grounds of Detention dated 24.07.2019, passed by the 2nd respondent herein, would disclose among other things that the detenu, viz., Narayanan @ Undiyal Narayanan @ Thellanthi Narayanan came to the adverse notice in the following five cases:-

Sl. No.	Name of the Police Station and Crime No.	Section of Law
1.	Manavalakurichi Police Station Cr.No.11 of 2017	457 and 380 IPC
2.	Eraniel Police Station Cr.No.256 of 2017	457 and 380 IPC
3	Puthukadai Police Station Crime No.87/2019	457 and 380 IPC
4	Karungal Police Station Cr.No.146/2019	379 IPC
5	Karungal Police Station Cr.No.147/2019	457 and 380 IPC

It is further stated in the grounds of detention that the detenu was involved in a case for the commission of offences under Sections 457, 380 r/w 511, 387, 506(ii) I.P.C. in Karungal Police Station Crime No.179 of 2019 (ground case) on the basis of the complaint given by the defacto complainant viz., Anto Paulin Merinto. The detenu was arrested on 16.05.2019 and produced before the Court of Judicial Magistrate, Eraniel and remanded to judicial custody on that day and his remand period extended 22.07.2019. The detaining authority on being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention and making a challenge to the same, the present Habeas Corpus Petition has been filed by him.

4.The learned counsel for the petitioner in support of his contention raised a ground that the detenu made a representation to the detaining authority, the Government as well as to the Advisory Board. However, the representation that has been made to the detaining authority alone has been forwarded and the representation was considered by the detaining authority on 09.08.2019. However, the detaining authority failed to forward the other representations to the Government and the Advisory Board till date and therefore, the petitioner has lost an effective remedy under the Tamil Nadu Act 14 of 1982.

5.The learned Additional Public Prosecutor has accepted this ground that the detaining authority has failed to forward the



representation made to the Government as well as to the Advisory Board.

6. Under Article 22 of the Constitution of India, the detenu is having a right to make a representation to the Government as well as to the Advisory Board, but his valuable right of making a representation has been deprived of in this case. Hence, on this sole ground, the impugned order is liable to be quashed.

7. 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.26/2019 dated 24.07.2019 is quashed. The detenu, namely Narayanan @ Undiyal Narayanan @ Thellanthi Narayanan, aged about 70 years, S/o.Kochuraman Nadar, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

RR

To

1.The Secretary to Government

State of Tamil Nadu

Home, Prohibition and Excise Department,

Fort St. George, Chennai-9.

2.The District Collector and District Magistrate

Kanyakumari District at Nagercoil.

3.The Superintendent of Prison

Central Prison, Palayamkottai

Tirunelveli District.

4.The Joint Secretary to Government

State of Tamil Nadu

Public(Law & Order), 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.791 of 2019

Dated: 19.03.2020