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H.C.P(MD)No.993 of 2019

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.993 of 2019

Indhrani

... Petitioner

Vs.

1.State of Tamil Nadu,
represented by
The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent,
Central Prison,
Madurai.

... 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 records pertaining to the proceedings of the second respondent made in his proceedings in No.57/BCDFGISSSV/2019, dated 03.09.2019 and quash the same and set the petitioner's son, by name, Nagamurugan @ Asha, son of Nallu, aged about 32 years at liberty from the third respondent.

For Petitioner : Mr.M.Jegadeesh Pandian

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., Nagamurugan @ Asha, Son of Nallu, aged about 32 years. The detenu has been detained, as per the order of the second respondent, dated

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



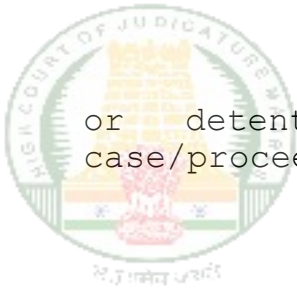
03.09.2019, under Section 2(e) of the Tamil Nadu Act 14 of 1982, branding him as "Drug Offender". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. It is seen that the ground case was registered in B4 Keeraithurai Police Station Crime No.607 of 2019 under Section 8(c) read with Section 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, altered into Sections 120-B IPC and 8(c) r/w 20(b)(ii)(B), 25 of Narcotic Drugs and Psychotropic Substances Act altered into Section 8(c) r/w 20(b)(ii)(B), 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, for the possession of 5 Kilograms of Ganja. There is one adverse case against the detenu for possession of Ganja in B4 Keeraithurai Police Station Crime No.752 of 2018.

3. The learned counsel for the petitioner submitted that in Paragraph No.5 of the grounds of detention, the Detaining Authority has placed reliance upon the order dated 06.10.2017 in Cr.M.P.No.3460 of 2017, that was passed by the learned Additional District Judge, Principal Special Court for EC and NDPS Act Cases, Madurai, granting bail to the accused therein, to come to the subjective satisfaction that the detenu would be enlarged on bail in the ground case. But, according to the learned counsel, in the order dated 06.10.2017 in Cr.M.P.No.3460 of 2017, referred to above, upon which, the Detaining Authority has placed reliance, bail was granted on the ground that the accused therein have no previous case to their credit, but, in the case at hand, the detenu has one previous case to his credit and hence, it cannot be stated that there is imminent possibility of the detenu coming out on bail in the ground case.

4. As rightly contended by the learned counsel for the detenu, the detenu does have one previous case to his credit, viz., B4 Keeraithurai Police Station Crime No.752 of 2018 (adverse case) and viewed from that angle, the Detaining Authority is wrong in arriving at subjective satisfaction that the detenu will be enlarged on bail in the ground case, relying upon the bail granted in Cr.M.P.No.3460 of 2017, dated 06.10.2017, relating to the case in C2 Subramaniyapuram Police Station Crime No.823 of 2017. This subjective satisfaction arrived at by the Detaining Authority, in the opinion of this Court, suffers the vice of non-application of mind and accordingly, the Detention Order is liable to be quashed.

5. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in No.57/BCDFGISSSV/2019, dated 03.09.2019. Consequently, the detenu, namely Nagamurugan @ Asha, Son of Nallu, aged about 32 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 (Records)

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/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.
- 2.The Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

H.C.P(MD)No.993 of 2019
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KK/13.05.2020/ 3P- 5C