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H.C.P.(MD) No.1041 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD) No.1041 of 2019

Sumathi

... Petitioner/
Wife of the detenue

-VS-

1.The Principal Secretary to Government
Government of Tamilnadu Home,
Prohibition and Excise IX
Secretariat, George Fort, Chennai-600 009

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

3.The Superintendent of Prison
Madurai Central Prison, Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records on the file of the second respondent in Detention Order No.56/2019 and set-aside the order of detention passed therein dated 18.09.2019, direct the respondents to produce the detenue by name Pandi, son of Ponnar, male, aged 39 years before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the wife of the detenu viz., Pandi, son of Ponnar, male, aged 39 years. The detenu has been detained, as per the order of the second respondent, dated 18.09.2019, 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 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. In Paragraph No.5 of the detention order, the Detaining Authority has relied upon a similar bail order, dated 06.12.2017, passed in Cr.M.P.No.6187 of 2017, by the learned Judicial Magistrate No.I, Karur, to come to the subjective satisfaction that the detenu herein will also be enlarged on bail. However, the order passed in Cr.M.P.No.6187 of 2017 was one under Section 167(2) Cr.P.C. and not under Section 437 Cr.P.C. Therefore, on the ground of non-application of mind, the detention order is liable to be quashed.

4. In the result, the Habeas Corpus Petition is allowed and the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.56/2019, is quashed. The detenu, namely, Pandi, son of Ponnar, aged 39 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

Sd/-

Assistant Registrar

// True Copy //

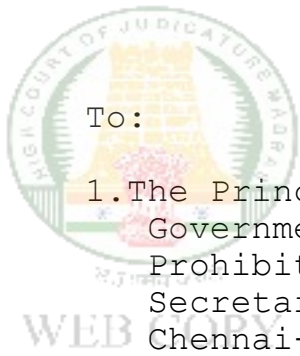
/ /2020

Sub Assistant Registrar(CS)

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.

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To:

- 1.The Principal Secretary to Government,
Government of Tamilnadu Home,
Prohibition and Excise IX,
Secretariat, George Fort,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Dindigul, Dindigul District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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CS (03.07.2020) 3P 5C