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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1068 of 2019

Sudhamathi

... Petitioner/Mother of Detenu

Vs.

1.State of Tamil Nadu,
rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

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

3.The Superintendent of Prison,
Central Jail,
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 entire records in detention order passed in T.N.P.D.A.B.C.D.F.G.I.S.S.S.V.No.13/Goonda/2019, dated 09.09.2019, on the file of the second respondent herein, set aside the same as illegal and direct the respondents to produce the body of the petitioner's son namely Arivazhagan, aged 26, S/o.Kanchithalaivan, before this Hon'ble Court and set him at liberty from the Central Prison, Madurai.

For Petitioner : Mr.R.Meenakshi Sundaram

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

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ORDER

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

The petitioner is mother of the the detenu viz., Arivazhagan, S/o.Kanchithalaivan, aged about 26 years. The detenu has been detained, as per the order of the second respondent, dated 09.09.2019, 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 with this Habeas Corpus Petition.



2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. In Paragraph No.3 of the grounds of detention, the Detaining Authority has averred as follows:

"In this heinous attack, Jothibasus has lost the balance and fell down. On hearing the screaming of the complainant, neighbours rushed towards the spot. On seeing them, the accused escaped in the bike from the spot. The injured Jothibasus was brought to the Government Hospital, Ramanathapuram for treatment. In this regard a case was registered in Uchipuli P.S.Cr.No.204/2019, u/s.294(b), 323, 324, 307 IPC. Injured Jothibasus was referred from Ramanathapuram Government Hospital to Madurai Velammal Hospital for further treatment."

4. There is no reference to any threat to public order on account of the incident warranting clamping of detention order. That apart, the Detaining Authority himself has stated that the neighbours gathered at the spot after the incident. This, in the opinion of this Court, shows lack of application of mind and ergo, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in T.N.P.D.A.B.C.D.F.G.I.S.S.S.V.No.13/Goonda/2019, dated 09.09.2019. Consequently, the detenu, namely Arivazhagan, S/o.Kanchithalaivan, aged about 26 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)

// 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.

SML



To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Ramanathapuram District,
Ramanathapuram.
- 3.The Superintendent of Prison,
Central Jail,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-9

Order made in
H.C.P. (MD)No.1068 of 2019
05.06.2020

VB (17.06.2020) 3P 6C