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H.C.P(MD)No.1097 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1097 of 2019

Samsudeen

... Petitioner/Detenu

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City, Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 No.15/BCDFGISSSV/2019, dated 28.09.2019 and quash the same and direct the respondents to produce the body or person of the detenu, by name Samsudeen, Son of Syedu, aged about 24 years, now detaining as "Goonda" at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

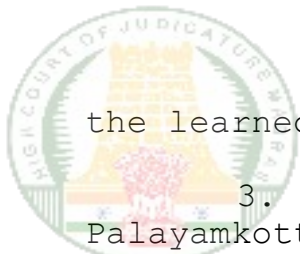
For Petitioner : Mr.R.Alagumani
For Respondents : Mr.K.Dinesh Babu,
Additional Public Prosecutor
* * * * *

ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner is the detenu viz., Samsudeen, Son of Syedu, aged about 24 years. The detenu has been detained, as per the order of the second respondent, dated 28.09.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and
<https://hcservices.ecourts.gov.in/hcservices/>



the learned Additional Public Prosecutor for the respondents.

3. It is seen that the detenu came to the adverse notice in Palayamkottai (Crime) Police Station Crime No.399 of 2018 under Sections 341, 294(b), 392 and 506(ii) IPC; Melapalayam (Crime) Police Station Crime No.265 of 2019 under Section 379 IPC and the ground case in Palayamkottai (Crime) Police Station Crime No.382 of 2019 under Section 392 IPC read with 397 IPC, based on which, the detention order has been clamped against the detenu. The Detaining Authority, while arriving at the subjective satisfaction for detaining the detenu, has relied upon the bail granted to an accused similarly placed as that of the detenu under Section 167(2) of the Code of Criminal Procedure and not under Section 437 or 439 of the Code of Criminal Procedure, which, in the opinion of this Court, vitiates the detention order and hence, the same is liable to be quashed.

4. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in No.15/BCDFGISSSV/2019, dated 28.09.2019. Consequently, the detenu, namely, Samsudeen, Son of Syedu, aged about 24 years, who is now detained at Central Prison, Palayamkottai, 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 (CS II)

// 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/RSB

To

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



- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City, Tirunelveli.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Joint Secretary to Government (L and O),
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.1097 of 2019

Dated:
02.07.2020

KK(09.07.2020) 3P 6C