



WEB COPY

H.C.P(MD)No.1139 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P(MD)No.1139 of 2019

Kishore Kumar @ Kishore

... Petitioner/Detenu

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, Nagercoil

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

... 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 passed in P.D.No.38/2019 dated 10.10.2019 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, Kishore Kumar @ Kishore, aged about 19 years, S/o.Mariappan, now detained at Central Prison, Palayamkottai, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.R.Anandaraj
Additional Public Prosecutor

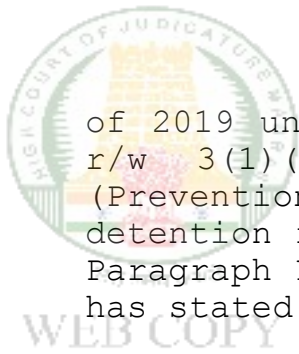
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ORDER

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

It is seen that the petitioner/detenu has been branded as a 'Goonda' and detained under the Tamil Nadu Act 14 of 1982, on 23.08.2019, challenging which, this Habeas Corpus Petition has been filed.

2. This detention order is predicated on the solitary case, namely, on the ground case in Suchindram Police Station Crime No.326
<https://hcservices.ecourts.gov.in/hcservices/>



of 2019 under Sections 147, 148, 341, 302 of the Indian Penal Code r/w 3(1)(r) and 3(2)(va) of Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015. The petitioner is in detention from 10.10.2019. But, he is in remand from 07.08.2019. In Paragraph No.7 of the grounds of detention, the Detaining Authority has stated as follows:

"7.Further I am satisfied that the accused Kishore Kumar @ Kishore is a notorious criminal and he is habitually committing grave crimes prejudicial to the maintenance of public peace and public order and as such the accused Kishore Kumar @ Kishore is a "GOONDA" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982."

3. In our opinion, there is no other materials except the ground case to infer that the detenu was habitually committing the crimes. This was the lack of application of mind on the part of the detaining authority and hence, on that ground, the detention order 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 P.D.No.38/2019 dated 10.10.2019. Consequently, the detenu, namely, Kishore Kumar @ Kishore, S/o.Mariappan, aged 19 years, who is now detained in 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 (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

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.

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

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



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

3.The Superintendent of Prison,
Central Prison, Palayamkottai
Tirunelveli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Joint Secretay to Government,
Public (Law & Order)
Fort St. George, Chennai-9

Order made in
H.C.P(MD)No.1139 of 2019
08.06.2020

VB (17.06.2020) 3P 6C