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H.C.P.(MD)No.1298 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **01.09.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KALYANASUNDARAM**
and

THE HONOURABLE MRS.JUSTICE **T.KRISHNAVALLI**

H.C.P(MD)No.1298 of 2019

Thangamari

... Petitioner

-vs-

1.State of Tamil Nadu

rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison, Madurai,
Madurai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S.(M) Confdl. No.71/19, dated 13.11.2019, on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, i.e., the petitioner's husband namely, Kasim, aged about 33 years, S/o.Abdul Kaboor, now detained at Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The wife of the detenu, namely, Kasim, son of Abdul Kaboor, aged 33 years, has filed this habeas corpus petition, challenging the detention order passed by the second respondent in H.S.(M) Confdl. No.71/19, dated 13.11.2019, whereunder he has been branded as "Drug Offender" as contemplated under Section 2(e) of Tamil Nadu Act, 14 of 1982.

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2.Mr.N.Pragalathan, learned counsel for the petitioner would submit that though several grounds have been raised by the petitioner to assail the impugned detention order, it is liable to be set aside on the sole ground of failure on the part of the respondents in intimating the arrest of the detenu to his family members or his relatives. It is the submission of the learned counsel for the petitioner that the father of the detenu is Abdul Kaboor, but the intimation has been given to one Vasuki, daughter of Vetrivel, who is a total stranger to the detenu. So, the arrest of the detenu was not properly intimated.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents, submitted that the detention order has been rightly passed by the second respondent on the basis of the relevant and cogent materials furnished by the sponsoring authority and there is no infirmity or illegality in the detention order. It is further contended that the arrest of the detenu has been properly intimated and prayed to dismiss the habeas corpus petition.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.A perusal of the arrest intimation form available at Page No.15 of the booklet shows that the arrest of the detenu was intimated to Vasuki, daughter of Vetrivel. But nothing is available on record to show that the said Vasuki is a relative of the detenu or his family friend. So, we find force in the contention of the learned counsel for the petitioner and on that ground, the impugned detention order is liable to be set aside.

6.In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in H.S.(M). Confdl.No.71/19, dated 13.11.2019, is set aside. Consequently, the detenu, namely, Kasim, son of Abdul Kaboor, aged 33 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.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

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

**ORDER MADE IN
H.C.P (MD) No.1298 of 2019
01.09.2020**

ma (CO)
TR(16.09.2020) 3P 6C