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H.C.P.(MD)No.1308 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P. (MD)No.1308 of 2019

Arivukannan

... Petitioner/Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

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

3.The Superintendent of Prison,
Central Prison,
Madurai 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 records in pursuant to the proceedings of the second respondent in Detention Order in Cr.M.P.No.15/Goonda/2019, dated 03.08.2019, quash the same and consequently, direct the respondents to produce the detenu, namely Arivukannan, S/o.Vellaisamy, aged 28 years, who is now detained in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.M.Chandrabose

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

ORDER

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

The petitioner is the detenu viz., Arivukannan, S/o.Vellaisamy, aged about 28 years. The detenu has been detained, as per the order of the second respondent, dated 03.08.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petititioner is before this Court with this Habeas Corpus Petition.



2. It is seen that the bail application filed by the detenu in the ground case in Velayuthapattinam Police Station Crime No.44 of 2019 was dismissed by the learned Judicial Magistrate, Devakottai, in Cr.M.P.No.640 of 2019 on 19.07.2019. The detention order was passed on 03.08.2019. At that time, there was no bail application pending. However, while arriving at the subjective satisfaction, the Detaining Authority, in Paragraph No.4, has observed that the detenu is likely to be released on bail, which, in the opinion of this Court, shows lack of application of mind. Under normal circumstances, this may not be a ground for quashing the detention order, however, taking into consideration the present COVID-19 pandemic situation and the consequent need for decongestion of prisoners, this Court is inclined to quash the detention order. That apart, the detenu is in custody from 10.07.2019, i.e., for almost eleven months.

3. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in Cr.M.P.No.15/Goonda/2019, dated 03.08.2019. Consequently, the detenu, namely, Arivukannan, S/o.Vellaisamy, aged about 28 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 (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SML

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

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



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

4.The Joint Secretary to Government of Tamil Nadu,
Public(Law and Order)
Fort Saint George, Chennai-9.

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

Order made in
H.C.P. (MD) No.1308 of 2019

Dated:
04.06.2020

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