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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.1373 of 2019

Vijayarajan

... Petitioner

-vs-

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

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

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records connected with the detention order of the respondent No.2 in Detention Order No.26/2019 dated 18.12.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Vijayarajan, son of Selvam, aged about 29 years, now confining as Goonda at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

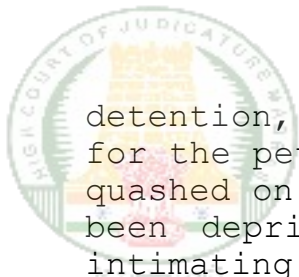
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

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

The Habeas Corpus Petition has been filed by the detenu, namely, Vijayarajan, Son of Selvam, Male aged about 29 years, who has been branded as "Goonda" by the second respondent in Detention Order No.26/2019 dated 18.12.2019, as contemplated under Section 2 (f) of the Tamil Nadu Act 14 of 1982.

2.Though several grounds have been raised to quash the order of
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detention, it is now contended by Mr.R.Alagumani, learned counsel for the petitioner that the impugned detention order is liable to be quashed on the sole ground that the valuable right of the detenu has been deprived due to failure on the part of the respondents in intimating the arrest of the detenu to his kith and kin. It is the submission of the learned counsel for the petitioner that one of the directions issued by the Hon'ble Apex Court in the court of **D.K.Basu vs. State of West Bengal**, reported in **AIR (1997) SC 610** has been violated.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor, submitted that the Detaining Authority has arrived at the subjective satisfaction based on the cogent and relevant materials placed by the Sponsoring Authority and there is no infirmity or irregularity in the impugned order of detention passed by the second respondent and hence, prayed for dismissal of the habeas corpus petition.

4.Perusal of the arrest intimation form available at Page No.133 of the booklet shows that the arrest of the detenu in the ground case was intimated through SMS to the Cell No.8124199080. However, there is no material to show that the said Cell Number belongs to the family members of the detenu or his relatives and the text of the message is also not found place in the booklet.

5.This Court, following the decision of the Honourable Apex Court in the case of **D.K.Basu** (cited supra), in several cases, has consistently held that if there is no proper intimation of arrest of the detenu either to his family members or his relatives, his valuable rights would seriously prejudiced on the sense that they will not have the opportunity to make effective representation to the Authority concerned in time for revocation of the detention order.

6. In the light of the above facts, the order of detention passed by the second respondent, in Detention Order No.26/2019 dated 18.12.2019 is set aside and the habeas corpus petition is allowed. Consequently, the detenu, namely, Vijayarajan, son of Selvam, aged about 29 years, who is 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 (AS)

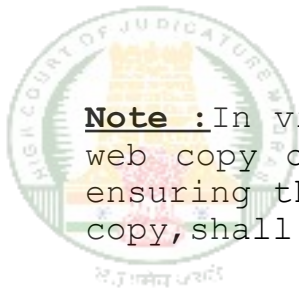
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/ /2020

Sub Assistant Registrar(CS)

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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

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KG (CO)
AP (06/10/2020) 3P 5C