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H.C.P(MD) No.312 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.312 of 2021

Darmaraj @ Kappunadar

... Petitioner/Father of Detenu

-vs-

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

2.The District Collector / Executive Magistrate
Office of the Collectorate Building
Tirunelveli District

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

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the records relating to the detention order passed by the second respondent in M.H.S.Confdl.No.18/2020, dated 15.04.2020 and quash the same and direct the respondents to produce the body or person of the detenu namely Thangasamy, son of Darmaraj @ Kappunadar, aged about 22 years (Now detained at Central Prison, Palayamkottai), before this Court and set him at liberty.

For Petitioner : Mr.Haroon Rasheed.D.S.

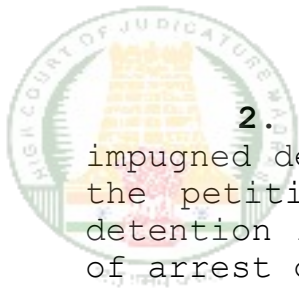
For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the father of the detenu, namely, Thangasamy, aged 22 years, challenging the detention order in M.H.S.Confdl.No.18/2020, dated 15.04.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



2. Though several grounds have been raised challenging the impugned detention order, Mr.D.S.Haroon Rasheed, learned counsel for the petitioner, would mainly contend that the impugned order of detention is liable to be set aside on the ground of non-intimation of arrest of the detenu to his relatives.

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3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the detention order has been rightly passed by the second respondent taking note of the activities of the detenu and it has been passed to prevent the detenu from indulging in similar activities in future, which are prejudicial to the maintenance of public order and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the instant case, a perusal of the Arrest Intimation Form available at Page No.65 of the booklet produced by the learned counsel for the petitioner, would show that the arrest of the detenu in the adverse case was intimated to the Jailor, Central Prison, Palayamkottai and nothing is available on record to establish that the arrest of the detenu was intimated to his family members or his relatives. Hence, in our considered view, the detention order is liable to be set aside on the ground of non-intimation of arrest of the detenu to his relatives.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in M.H.S.Confdl.No.18/2020, dated 15.04.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Thangasamy, son of Darmaraj @ Kappunadar, aged about 22 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.

Sd/-

Assistant Registrar (RTI ACT)

// True Copy //

/ /2021

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.



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

2.The District Collector / Executive Magistrate,
Office of the Collectorate Building,
Tirunelveli District.

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

4. The Joint Secretary to Government,
Public (Law &Order)
Fort St.Goerge,
Chennai 600 009.

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

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SSS (CO)
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