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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P. (MD) No.625 of 2020

M.Saranya

... Petitioner

-vs-

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

2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.

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

... 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 entire records connected with the detention order passed in No.7/BCDFGISSSV/2020, dated 12.08.2020 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 by name Mani, aged about 36 years, S/o.Vellapandi Thevar, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty, forthwith.

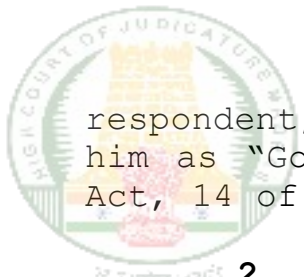
For Petitioner : Mr.N.Pragalathan

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 wife of the detenu, namely, Mani, son of Vellapandi Thevar, aged about 36 years, against the detention order passed by the second



respondent, in No.7/BCDFGISSSV/2020, dated 12.08.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2. It is submitted by Mr.N.Pragalathan, learned counsel for the petitioner that though the detention order has been assailed on several grounds, it is liable to be set aside on the ground that there was no proper intimation of arrest of the detenu in the 2nd, 4th & 5th adverse cases either to his family members or his relatives. It is submission of the learned counsel for the petitioner that the arrest in those cases was intimated only to the jail authorities and not to the family members or relatives of the detenu. According to the learned counsel for the petitioner, the non-intimation of arrest would seriously affect the valuable rights of the detenu to make effective representation to the Authorities concerned for revocation of the detention order.

3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter affidavit filed by the second respondent, submitted that the second respondent, who is the detaining authority, taking note of the fact that the detenu has involved in 5 adverse cases and after satisfying with the materials placed by the Sponsoring Authority, has rightly passed detention order to prevent the detenu from indulging in similar activities in future. According to the learned Additional Public Prosecutor there is no illegality or irregularity in the impugned detention order. Furthermore, the intimation of arrest of the detenu was given through SMS and hence, the rights of the detenu has not been affected in any manner.

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

5. It is an admitted fact that the detenu has involved in 5 adverse cases apart from the ground case. In the ground case, he was arrested on 26.07.2020 and thereafter, the arrest was shown in the 2nd, 4th and 5th adverse cases on P.T.Warrant. A perusal of the additional typed set of papers filed by the petitioner would show that in those cases, arrest was intimated to the jail authorities. In view of the above fact this Court, following the decision of the Honourable Apex Court in the case of **D.K.Basu vs. State of West Bengal**, reported in **AIR (1997) SC 610**, 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 and circumstances, we are convinced that the impugned detention order would not stand to the scrutiny of this Court and the same is, therefore, liable to be set aside.

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7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in No.7/BCDFGISSSV/2020, dated 12.08.2020, is set aside. Consequently, the detenu, namely, Mani, son of Vellapandi Thevar, aged about 36 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(Records)

// 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.

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To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.



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.

H.C.P. (MD) No.625 of 2020
04.02.2021

SV2 (CO)
TR(22.02.2021) 4P 6C