



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE B.GOKULDAS

H.C.P (MD) No.396 of 2016

Shanmugavelu

: Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Borstal School, District Jail,
Pudukottai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl No.140/2015 dated 08.12.2015 and quash the same and direct the respondents to produce the body and person of petitioner's son Ananth alias Selvaganesh aged about 21 years detained in Borstal School, District Jail Pudukottai before this Court and set him at liberty forthwith.

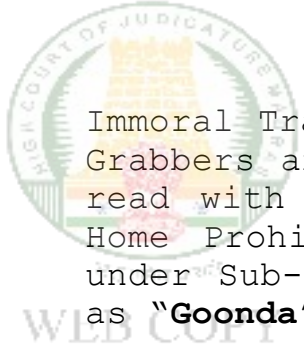
For Petitioner
For Respondents

: Mr.V.Angusamy
: Mr.T.Mohan
Additional Public Prosecutor.

O R D E R

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

This Habeas Corpus Petition is filed by the father of the detenu - Ananth alias Selvaganesh, who is under detention, pursuant to the order passed by the second respondent dated 08.12.2015, in M.H.S.Confdl No.140/2015, under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug-offenders, Forest-offenders, Goondas,



Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-Grabbers and Video Pirates Act, 1982, (Tamil Nadu Act 14 of 1982), read with the order issued by the Government in G.O.(D).No.200, Home Prohibition and Excise (XVI) Department, dated 18.10.2015, under Sub-Section (2) of Section 3 of the said Act, branding him as "Goonda".

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. The Detention Order in question was passed on 08.12.2015. The petitioner made a representation on 11.03.2016. The Government considered the matter and ultimately passed the order rejecting the representation on 05.04.2016.

4. It is the contention of the petitioner that there was a delay of 9 days in considering the representation by the Minister for Electricity.

5. In **Rekha Vs. State of Tamil Nadu**, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

6. In **Tara Chand Vs. State of Rajasthan and others**, [1980 (2) SCC 321], the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

7. In the subject case, admittedly, there is an inordinate and unexplained delay of 9 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

8. In the result, the impugned Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl No.140/2015, dated 08.12.2015, is quashed. The detenu, namely, Ananth alias Selvaganesh, S/o. Shanmugavelu, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

9. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar



To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Prison,
Borstal School, District Jail, Pudukottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 5.The Inspector of Police, Kallidaikurichi Police Station,
Tirunelveli.

+1 cc to M/s.V.Angusamy, Advocate in SR.No.32097

jikr

CSL/SKS-RR/05.07.2016 : 3p/7c

Order made in
H.C.P(MD)No.396 of 2016
Dated: **21.06.2016**