



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2017

CORAM:

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

H.C.P(MD)No.728 of 2017

P.Pramila : Petitioner

Vs.

- 1.The State Rep.by,
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector / District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Inspector of Police,
Tenkasi Police Station,
Tenkasi, Tirunelveli District.
- 4.The Superintendent,
Borstal School,
District Jail,
Pudukkottai.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for records in M.H.S.Confdl.No.28/2017, dated 02.03.2017 and directing the respondents herein to produce the detenu-Karthick, son of Paramasivan, aged 19 years herein, who has been termed as 'GOONDA' and now confined in Borstal School, Pudukkottai and set aside the same and set the detenu at liberty.

For Petitioner

: Mr.P.Singaravel

For Respondents

: Mr.C.Ramesh
Additional Public Prosecutor.

ORDER

(Order of the Court was made by M.M.SUNDRESH, J)

The petitioner is the mother of the detenu- Karthick S/o.Paramasivam, aged about 19 years and detenu has been detained by the second respondent by his proceedings in M.H.S.Confdl.No.28/2017, dated 02.03.2017, holding him to be a

have also

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

5. The Detention Order in question was passed on 02.03.2017. The petitioner made representations dated 18.03.2017. Thereafter, the remarks were duly received on 28.03.2017 and 28.3.2017 respectively. Thereafter, the Government considered the matter and passed the order rejecting the representation on 26.05.2017.

7. 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 detainee.

<https://hcservices.dcomts.doe.in/hcservices/>

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



10. In the subject case, admittedly, there is an inordinate and unexplained delay of 38 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent, in his proceedings in M.H.S.Confdl.No.28/2017, dated 02.03.2017 is quashed. The detenu, namely, Karthick, Son of Paramasivam, aged about 19 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
 - 2.The District Collector / District Magistrate,
Tirunelveli District,
Tirunelveli.
 - 3.The Inspector of Police,
Tenkasi Police Station,
Tenkasi, Tirunelveli District.
 - 4.The Superintendent,
Borstal School,
District Jail, Pudukkottai.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 - 6.The Joint Secretary to Government,
Public (Law and Order), Fort Saint George, Chennai-9
- vsn
RL/7C/3P/SKN/RSK/SAR1/31/8/2017