



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.236 of 2018

Shunmugavel

... Petitioner

Vs.

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

2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City.
(Full Additional Charge)

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

... Respondents

PRAYER: The 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 No.4/BCDFGISSSV/2018 dated 08.02.2018 and quash the same and direct the Respondents to produce the body or person of the detenu by name Alagunainar, son of Shunmugavel, aged about 25 years, now detained at Palayamkottai Central Prison before this Hon'ble Court and set him at liberty forthwith.

For Petitioner

: Mr.R.Alagumani

For Respondents

: Mr.V.Neelakandan

Additional Public Prosecutor.

ORDER

(Order of the Court was made by C.T.SELVAM,J.)

The petitioner is the father of the detenu viz., Alagunainar, aged about 25 years. The detenu has been detained by order in No.4/BCDFGISSSV/2018, dated 08.02.2018, holding him to be a "Goonda", as contemplated under 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



decision in **Ramesh's case** (cited supra) wherein this Court has held as follows:

".....

3. It is brought to our notice by the learned Government advocate that the analyst report was received on 06.12.2014 and the doctor has issued certificate on 07.12.2014. Even in the counter affidavit filed by the first respondent, it is stated that the sponsoring authority has submitted his affidavit only on 15.01.2015. When the sponsoring authority is in possession of the analyst report and the doctor's report even on 06.12.2014 and 07.12.2014, there is no proper explanation for submitting his affidavit till 15.01.2015 for invoking the provisions of Tamil Nadu Act 14 of 1982. Even thereafter, the impugned detention order was passed only on 27.02.2015, i.e. After five weeks of receipt of the affidavit from the sponsoring authority. Though the detaining authority has filed a counter affidavit, there is no explanation for the undue delay in passing the impugned order.

4. In this regard, learned counsel for the petitioner relied on unreported decision of this Court rendered in H.C.P. No.1149 of 1995, dated 13.12.1995. In similar circumstances, after pointing out the unexplained delay between the date of submission of the affidavit by the sponsoring authority and the detention order, the Division Bench of this Court has concluded thus:

"Such delays tend to have an affect of snapping the link between prejudicial activity and passing of preventive orders....."

6. In view of the above decision rendered by the Division Bench of this Court, this Court is of the view that the detention order is unsustainable in law on the ground of inordinate and unexplained delay in passing the detention order and the same is liable to be set aside.

7. In the result, the Detention Order, passed by the second respondent, in his proceedings in No.4/BCDFGISSSV/2018, dated 08.02.2018, is quashed. The detenu, namely, Alagunainar, son of Shunmugavel, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

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

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City.
3. The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
4. The Joint Secretary to Government,
Public (Law & Order)
Fort. St. George, Chennai-9
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani, Advocate Sr.No.63746

SJ

VB/SV/SAR1/14.06.2018/4P/7C

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