

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.NO.374 OF 2019

Shanthi

... Petitioner/
Mother of the Detenu

-vs-

1. Government of Tamil Nadu,
Rep. By its Secretary,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Chennai - 9
2. The District Collector & District Magistrate ,
Erode District, Erode.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Cr.M.P.No.02/Goonda/2019/C1 dated 29.01.2019 on the file of the 2nd respondent herein and set aside the same and direct the respondents herein to produce the body of the petitioner's son Thiru Bharathkumar, son of late Manokaran, aged 30 years, now confined in Central Prison, Coimbatore and set him at liberty .

For Petitioner : Ms.R.Subhadra Devi

For Respondents : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the mother of the detenu viz., Bharathkumar, son of late Manokaran, aged 30 years, challenges the order of detention dated 29.01.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3.Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel for the petitioner strongly contended that though the occurrence in the ground case took place on 31.10.2018 and the detenu was arrested on the same day, the detention order was passed only on 29.01.2019 i.e., after a considerable delay of more than two months. Therefore, the detention order has to be set aside.

4.As seen from the grounds of detention, it is clear that though the detenu was arrested in respect of the ground case on 31.10.2018, the order of detention came to be passed only on 29.01.2019 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5.We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.02/Goonda/2019/C1 dated 29.01.2019, passed by the second respondent is set aside. The detenu, namely, Bharathkumar, Son of (late) Manokaran, aged 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi/ssm

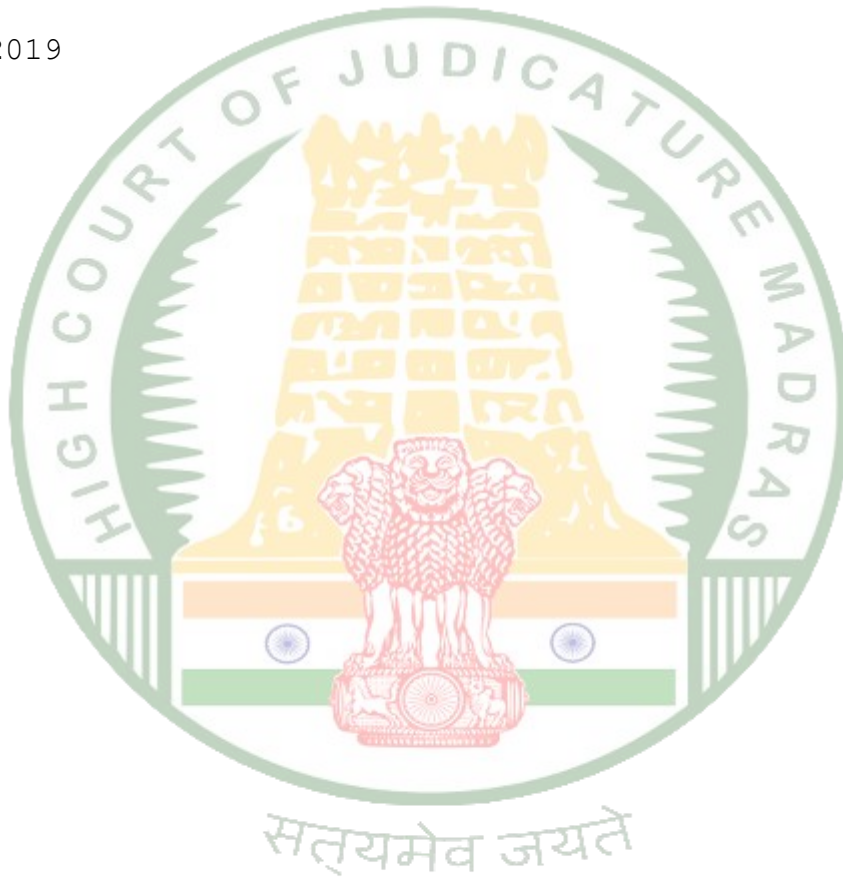
To:

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9
2. The District Magistrate & District Collector,
Erode District, Erode.

3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order)
Fort St. George, Chennai-9.

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RSI (CO)
CS/01/08/2019



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