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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No.790 of 2019

Harish

... Petitioner

-vs-.

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

2.District Magistrate and District Collector
Vellore District,
Vellore 9.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 11.04.2019 in C3/D.O.No.29/2019 against the petitioner's father John Kennedy, Male, aged 45 years, S/o. Yesupatham, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.R.Prathap Kumar
: Addl. Public
Prosecutor

ORDER

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

The petitioner is the son of the detenu, John Kennedy, S/o. Yesupatham, aged 45 years. The detenu has been detained by the second respondent by his order in C3/D.O.No.29/2019 dated



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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 detenu.

8. In *Sumaiya vs. The Secretary to Government* (2007 (2) MWN (Cr.) 145), a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In *Tara Chand vs. State of Rajasthan and others*, reported in 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.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 10 days in submitting the remarks and 4 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.29/2019 dated 11.04.2019 passed by the second respondent is set aside. The detenu, John Kennedy, S/o. Yesupatham, aged 45 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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



2. District Magistrate and District Collector,
Vellore District,
Vellore 9.

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3. The Superintendent,
Central Prison, Vellore.

4. The Joint Secretary to Government,
Public (Law & Order),
Fort Saint George, Chennai - 9.

5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.790 of 2019

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