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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2019

Coram

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

H.C.P. No.852 of 2019

Usha

... Petitioner

-vs-.

1.State of Tamil Nadu,
Rep. By its Secretary to Government,
Department of Prohibition and Excise(Home),
Fort St. George, Chennai - 600 009

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Vepery, Chennai. - 7

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in No.183/BCDFGISSSV/2019 dated 11.04.2019 on the file of the 2nd respondent herein and set aside the same as illegal and produce the detenu Dinakaran, Son of Vaithilingam, aged about 33 years, who is confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

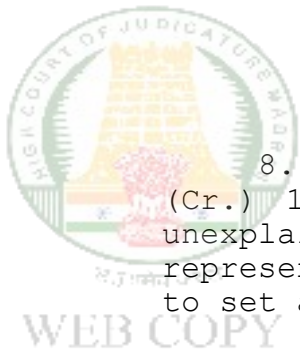
For Petitioner : Mr.Ilayaraja Kandasamy

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 wife of the detenu, Dinakaran, Son of Vaithilingam, aged about 33 years. The detenu has been detained by the second respondent by his order in No.183/BCDFGISSSV/2019 dated 11.04.2019, holding to be a "Goonda", as contemplated



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 9 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 No.183/BCDFGISSSV/2019 dated 11.04.2019 passed by the second respondent is set aside. The detenu, Dinakaran, Son of Vaithilingam, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to Government,
Department of Home, Prohibition and Excise,
Fort St. George, Chennai - 600 009
- 2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Vepery, Chennai. - 7
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.



4. The Public Prosecutor,
High Court, Madras.

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

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rsv(co)
nr 29/08/2019