

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.08.2019

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

H.C.P. No.972 of 2019

Gayathri

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. By its Secretary to Govt,
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,
Chennai - 600 007.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records in No.218/BCDFGISSSV/2019 dated 06.05.2019 on the file of the second respondent herein and set aside the same as illegal and produce the detenu Somasundaram @ Sundar, son of Rathinam, aged about 27 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.C.Iyyappa Raj
Addl. Public Prosecutor

ORDER

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

The petitioner is the sister-in-law of the detenu, Somasundaram @ Sundar, son of Rathinam, aged about 27 years. The detenu has been detained by the second respondent by his order in No.218/BCDFGISSSV/2019 dated 06.05.2019, holding to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor

appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 appearing for the petitioner strongly contended that though the detenu was arrested on 29.03.2019, the detention order was passed only on 06.05.2019 i.e., after a considerable delay of more than one month. 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 on 29.03.2019, the order of detention came to be passed only on 06.05.2019 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 No.218/BCDFGISSV/2019 dated 06.05.2019, passed by the second respondent is set aside. The detenu, namely, Somasundaram @ Sundar, son of Rathinam, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai - 600 007.

3.The Superintendent,
Central Prison,Puzhal,Chennai.

4. The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai -600 009.

H.C.P. No.972 of 2019

Kak (24/09/2019)



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