

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2019

CORAM

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

H.C.P. No. 987 of 2019

Elaya

... Petitioner

-vs-

1.State of Tamil Nadu
Rep by its Secretary,
Prohibition and Excise Department,
Fort St.George, Chennai - 600 009

2.The District Collector and District Magistrate
Cuddalore
Cuddalore District.

3.The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the detention order C3/D.O/36/2019 dated 08.05.2019 on the file of the second respondent herein, and quash the same and direct the respondents herein to produce the body of the detenu petitioner's son Kaviarasan S/o. Kumarasami, Hindu, aged about 19 years, who is confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.R.Thamarai Selvan

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 mother of the detenu - Kaviarasan, S/o. Kumarasami, Hindu, aged about 19 years. The detenu has been detained by the second respondent by his order in C3/D.O/36/2019 dated 08.05.2019, holding him 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 perused the materials available on record.

3.Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. The learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 25.03.2019, the detention order was passed only on 08.05.2019 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 25.03.2019, the order of detention came to be passed only on 08.05.2019 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 C3/D.O/36/2019 dated 08.05.2019, passed by the second respondent is set aside. The detenu, namely, Kaviarasan, S/o. Kumarasami, Hindu, aged about 19 years, is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The District Collector and District Magistrate
Cuddalore
Cuddalore District.

3.The Inspector of Police,
Karuveppilankurichi Police Station,
Cuddalore District.

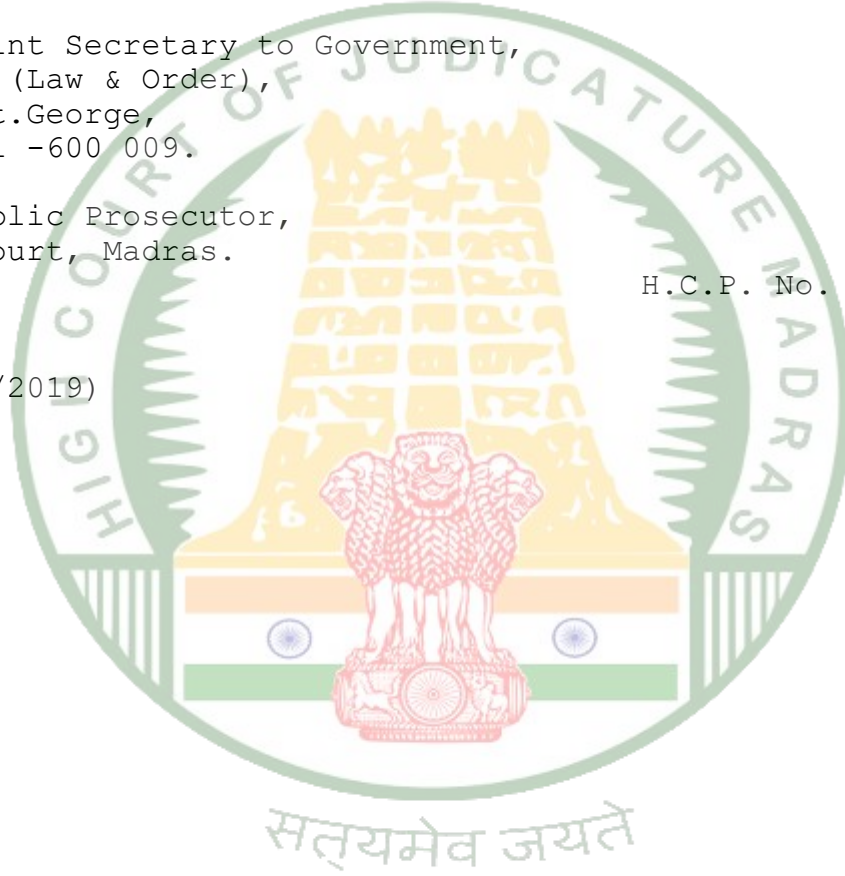
4. The Superintendent,
Central Prison,
Cuddalore

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

6. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 987 of 2019

Kak (24/09/2019)



WEB COPY