

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

Coram

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

H.C.P. No. 1040 of 2019

Chitra

... Petitioner

-vs-

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

2.The District Collector and District Magistrate,
Erode District,
Erode.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling upon the production of the records relating to the detention order dated 13.05.2019 made in detention memo Cr.M.P.No.07/Goonda/C1 dated 13.05.2019 passed by second respondent herein and quash the same and direct the respondents to produce the body or person of the petitioner's son Karthik, aged 22 years branded as Goonda and now confined in Central Prison, Coimbatore, Coimbatore District before this Court and set him at liberty.

For Petitioner : Mr.N.Chinnaraj

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

ORDER

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

The petitioner is the mother of the detenu - Karthik, S/o. Krishnamurthy, male, aged about 22 years. The detenu has been detained by the second respondent by his order in

Cr.M.P.No.07/Goonda/C1 dated 13.05.2019, 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 contended that though the detenu was arrested on 10.04.2019, the detention order was passed only on 13.05.2019 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 10.04.2019, the order of detention came to be passed only on 13.05.2019 and hence, there is 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.07/Goonda/C1 dated 13.05.2019, passed by the second respondent is set aside. The detenu, namely, Karthik, S/o. Krishnamurthy, male, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

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

2.The District Collector and District Magistrate,
Erode District,
Erode.

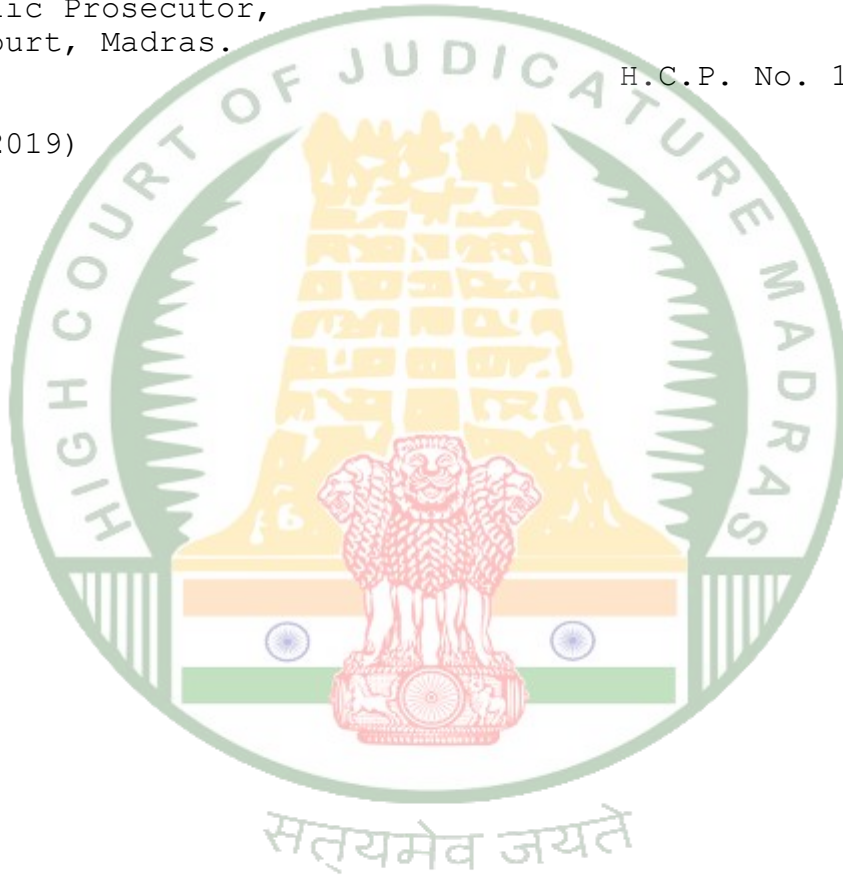
3.The Superintendent,
Central Prison, Coimbatore.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1040 of 2019

SPD(CO)
CB(09/10/2019)



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