

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. 1054 of 2019

Sankar

... Petitioner

-vs-

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

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery,Chennai

.... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in Memo No.241/ BCDFGISSSV/2019 passed by the second respondent on 11.05.2019 on the file of the second respondent and quash the same as illegal and consequently direct the respondents to produce Sankar, Son of Babu, aged about 29 years, before this Court, who now detained in Central Prison, Puzhal- II, Chennai and set him at liberty.

For Petitioner : Mr.A.Elumalai

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

ORDER

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

The petitioner, Sankar, Son of Babu, aged about 29 years,

is the detenu. The detenu has been detained by the second respondent by his order in Memo No.241/BCDFGISSSV/2019 dated 11.05.2019, 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 28.03.2019, the detention order was passed only on 11.05.2019 i.e., after a considerable delay of more than one and half 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 28.03.2019, the order of detention came to be passed only on 11.05.2019 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 Memo No.241/BCDFGISSSV/2019 dated 11.05.2019, passed by the second respondent is set aside. The detenu, namely, Sankar, S/o. Babu, male, aged 29 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,
Secretariat,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of Commissioner of Police,
Vepery,Chennai

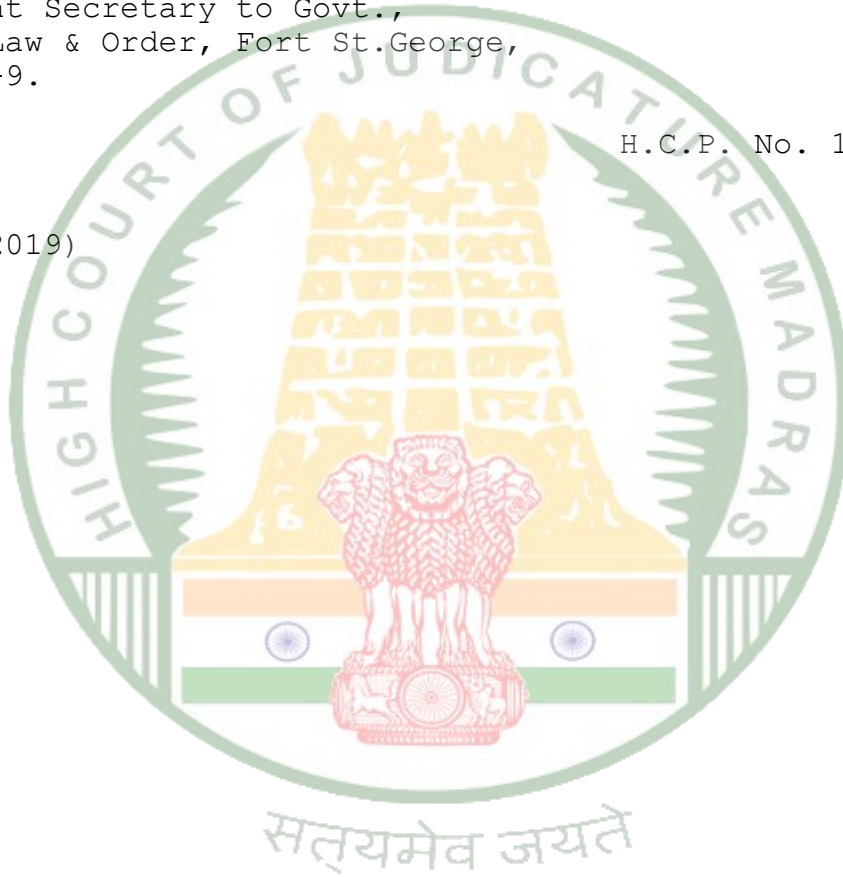
3.The Superintendent,
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

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

H.C.P. No. 1054 of 2019

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



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