

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.08.2019

CORAM

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

H.C.P. NO.1091 OF 2019

Raju

... Petitioner

-Vs-

1. Government of Tamil Nadu rep. by its
Secretary,
Home, Prohibition and Excise (XVI)
Department, Fort St. George,
Chennai - 600 009.

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

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in S.C.No.07 dated 08.05.2019 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the body of the petitioner's friend Marappa, age 30 years, son of Sannappa, now confined in Central Prison, Salem and set him at liberty.

For Petitioner : Ms.R.Subhadra Devi

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

ORDER

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

The petitioner, who is the friend of the detenu viz., Marappa, age 30 years, son of Sannappa, challenges the order of detention dated 08.05.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

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

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 for the petitioner strongly contended that though the detenu was arrested on 12.03.2019, the detention order was passed only on 08.05.2019 i.e., after a considerable delay of nearly fifty days. 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 in respect of the ground case on 12.03.2019, 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 S.C.No.07/2019 dated 08.05.2019, passed by the second respondent is set aside. The detenu, namely, Marappa, Son of Sannappa, aged 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

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

3.The Superintendent,
Central Prison, Salem.

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

5. The Public Prosecutor,
High Court, Madras.

H.C.P. No.1091 of 2019

Kak (22/09/2019)



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