

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

Coram

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

H.C.P. No.1123 of 2019

Chellaiya

... Petitioner

-vs-

1.District Magistrate and District Collector
Tiruvallur District
Tiruvallur.

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

.... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records of the first respondent culminating with the order of detention bearing BCDFGISSSV No.24/2019 dated 16.05.2019 passed by the first respondent herein detaining the petitioner's grandson John @ Johnson, Son of Late Yacob under Section Act XIV of 1982 and quash the same and direct the respondents to produce the body of the person of the detenu, John @ Johnson, Son of Late Yacob, male aged about 28 years before this Court now detained in the Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.M.Jaikumar

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 grandfather of the detenu, John @ Johnson, Son of Late Yacob, male aged about 28 years. The detenu has been detained by the first respondent by his order in BCDFGISSSV No.24/2019 dated 16.05.2019, 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 18.02.2019, the detention order was passed only on 16.05.2019 i.e., after a considerable delay of nearly three months. 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 18.02.2019, the order of detention came to be passed only on 16.05.2019 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 BCDFGISSSV No.24/2019 dated 16.05.2019, passed by the first respondent is set aside. The detenu, namely, John @ Johnson, Son of Late Yacob, male aged about 28 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

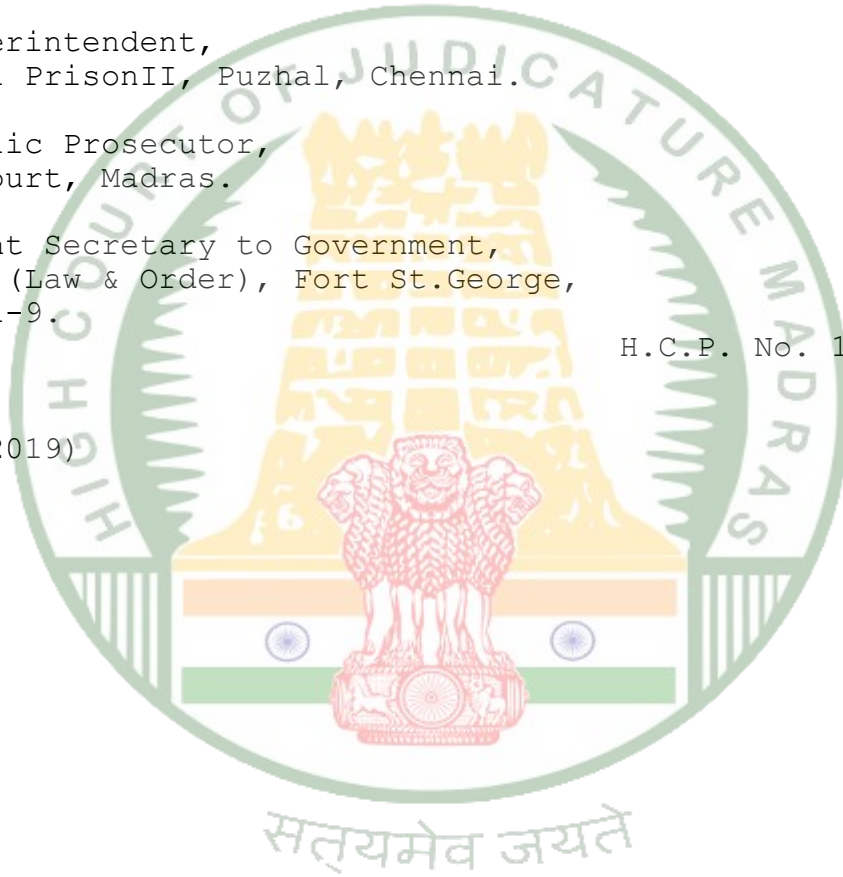
mmi/ssm

To

- 1.The District Magistrate and District Collector
Tiruvallur District
Tiruvallur.
- 2.The Secretary to Government,
Department of Home,Prohibition and Excise,
Fort St.George, Chennai - 600 009.
- 3.The Superintendent,
Central PrisonII, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.
- 5.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.

H.C.P. No. 1123 of 2019

GP(CO)
CB(23/10/2019)



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