

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

Coram

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

H.C.P. No. 1133 of 2019

P.Jeevitha ... Petitioner/Wife of the detenu

-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 Commissioner of Police,
Greater Chennai. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order passed by the second respondent in Memo No.217/BCDFGISSSV/2019 dated 06.05.2019 in detaining the detenu under Section 2 (f) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu Palani, son of Kothandaraman, aged about 31 years, who is detained at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.G.Nirmal Krishnan

For Respondents : Ms.Saradha Devi
: Government Advocate
(Cr1.Side)

ORDER

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

The petitioner is the wife of the detenu, Palani, son of Kothandaraman, aged about 31 years. The detenu has been detained by the second respondent by his order in Memo

No.217/BCDFGISSSV/2019 dated 06.05.2019 holding 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 Government Advocate (Crl. Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 appearing for the petitioner strongly contended that though the detenu was arrested on 30.03.2019, the detention order was passed only on 06.05.2019 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 30.03.2019, the order of detention came to be passed only on 06.05.2019 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 Memo No.217/BCDFGISSSV/2019 dated 06.05.2019, passed by the second respondent is set aside. The detenu, namely, Palani, son of Kothandaraman, aged about 31 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,
Home,Prohibition and Excise Department,
Secretariat,
Chennai - 600 009

2.The Commissioner of Police,
Greater Chennai.

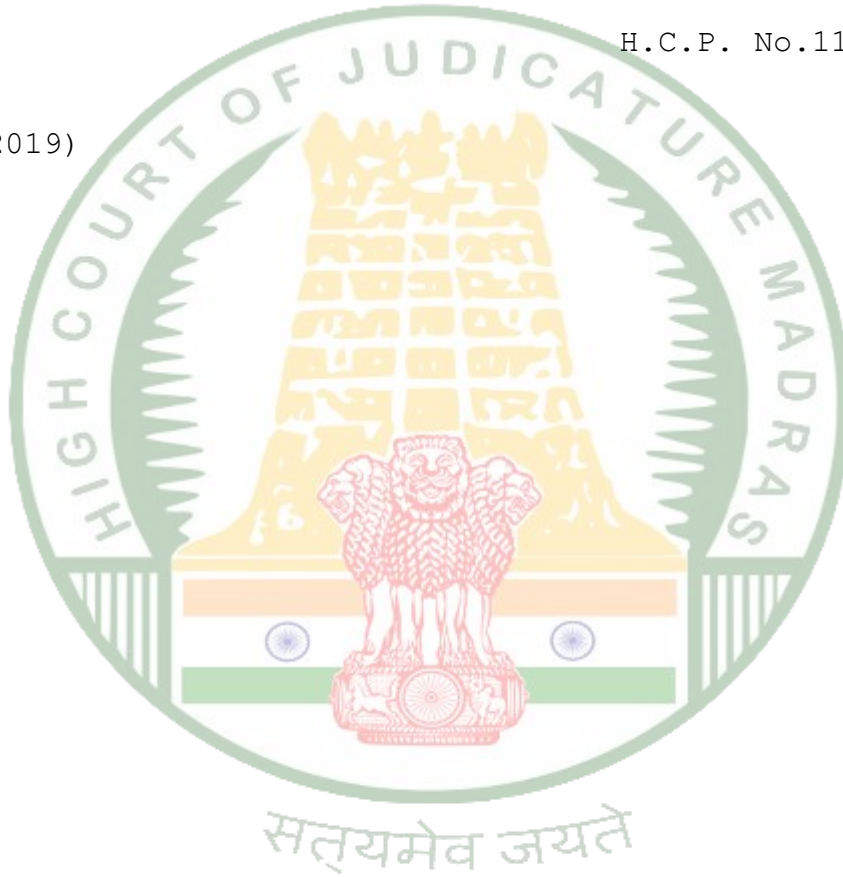
3.The Superintendent,
Central Prison,Puzhal, Chennai.

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

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No.1133 of 2019

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



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