

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM

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

H.C.P.NO.1147 OF 2019

Parthasarathy

... Petitioner

-vs-

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

2. The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai - 7.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in No.290/BCDFGISSSV/2019 dated 28.05.2019 on the file of second respondent herein and set aside the same as illegal and produce the detenu Parthiban, son of Parthasarathy, aged about 25 years, who is confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Ms.V.Saradha Devi,
: Govt. Advocate (Crl.
Side)

ORDER

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

The petitioner is the father of the detenu - Vijay, son of Sankar, aged about 23 years. The detenu has been detained by the

second respondent by his order in Memo No.290/BCDFGISSSV/2019 dated 28.05.2019, 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 Government Advocate (Crl. Side) 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. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 20.04.2019, the detention order was passed only on 28.05.2019 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 20.04.2019, the order of detention came to be passed only on 28.05.2019 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.290/BCDFGISSSV/2019 dated 28.05.2019, passed by the second respondent is set aside. The detenu, namely, Parthiban, son of Parthasarathy, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

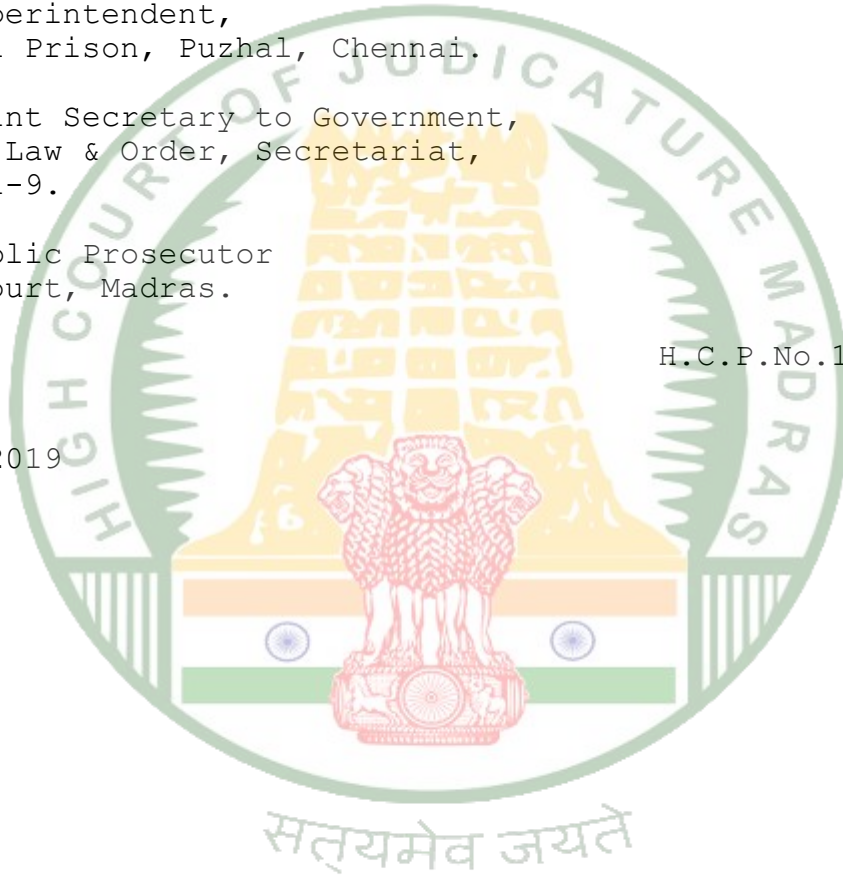
mmi/ssm

To

1. The Secretary to Government,
Department of Prohibition and Excise
(Home), Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai - 7.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Joint Secretary to Government,
Public Law & Order, Secretariat,
Chennai-9.
5. The Public Prosecutor
High Court, Madras.

H.C.P.No.1147 of 2019

MG (CO)
CS/10/10/2019



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