

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

Coram

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

H.C.P. No. 1248 of 2019

Vasanthi ... Petitioner/Mother of the Detenue

-vs-

1.State of Tamil Nadu

Rep. By The Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009

2.The Commissioner of Police,

Greater Chennai,
Vepery, Chennai - 07.

... 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 in Memo No. 189/BCDFGISSSV/2019 dated 03.05.2019 passed by the 2nd respondent under Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Selvakumar @ Chinna Appu, S/o. Ramesh, aged 22 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Selvakumar @ Chinna Appu, S/o. Ramesh, aged 22 years the detenu herein at liberty.

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For Petitioner : Mr.R.Muthu Kumar

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

ORDER

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

The petitioner is the mother of the detenu Selvakumar @ Chinna Appu, S/o. Ramesh, aged 22 years. The detenu has been detained by the second respondent by his order Memo No. 189/BCDFGISSSV/2019 dated 03.05.2019 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 Additional Public Prosecutor 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 31.03.2019, the detention order was passed only on 03.05.2019 i.e., after a considerable delay of 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 31.03.2019, the order of detention came to be passed only on 03.05.2019 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 Memo No. 189/BCDFGISSSV/2019 dated 03.05.2019, passed by the second respondent is set aside. The

detenu, namely, Selvakumar @ Chinna Appu, S/o. Ramesh, aged 22 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,
Vepery, Chennai - 07.
- 3.The Superintendent of Prison,
Central Prison,Puzhal,Chennai.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort Saint George, Chennai - 9.
- 5.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

H.C.P. No. 1248 of 2019

RSI[CO]
SRG 27/09/2019

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