

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice RMT. TEEKAA RAMAN

H.C.P. No. 1311 of 2019

Radhika

... Petitioner

-vs-

1.State of Tamil Nadu
rep. by The Secretary,
Home, Prohibition and Excise Dept.,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
The Greater Chennai City,
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 relating to the detention order in Memo No.325/BCDFGISSSV/2019 dated 12.06.2019 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Siva @ Namachivayam, S/o.Arunachalam aged about 39 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Siva @ Namachivayam, S/o.Arunachalam aged about 39 years the detenu at liberty.

For Petitioner : Mr.K.Sathish

For Respondents : Mr.R.Prathap Kumar
Addl. Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu - Siva @ Namachivayam, S/o.Arunachalam aged about 39 years. The detenu has been detained by the second respondent by his order in Memo No.325/BCDFGISSSV/2019 dated 12.06.2019, 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. 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 12.06.2019 i.e., after a considerable delay of more than two 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 31.03.2019, the order of detention came to be passed only on 12.06.2019 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.325/BCDFGISSSV/2019 dated 12.06.2019, passed by the second respondent is set aside. The detenu, namely, Siva @ Namachivayam, S/o.Arunachalam aged about 39 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mmi/ssm
To

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

H.C.P. No. 1311 of
2019

rsv
A.SK(01/10/2019)

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