

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

H.C.P. No. 1342 of 2019

B.Balamurugan ...Petitioner/ Brother of Detenue

-vs-

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

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

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 66.

... 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 passed by the second respondent in BCDFGISSSV No.327/2019 dated 12.06.2019 and quash the same and consequently direct the respondents to produce the detenu B.Gajendran, S/o.Balachandran, aged about 31 years before this Court, now he is detained in the Central Prison, Puzhal, Chennai and to set him at liberty forthwith.

For Petitioner : Mr.P.Vijendran

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 brother of the detenu - B.Gajendran, S/o.Balachandran, aged about 31 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.327/2019 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 BCDFGISSSV No.327/2019 dated 12.06.2019, passed by the second respondent is set aside. The detenu, namely, B.Gajendran, S/o.Balachandran, aged about 31 years is directed to be released forthwith unless his detention is required in connection with any other case.

mmi/ssm

Sd/-

सत्यमेव जयते Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

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

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai - 66.

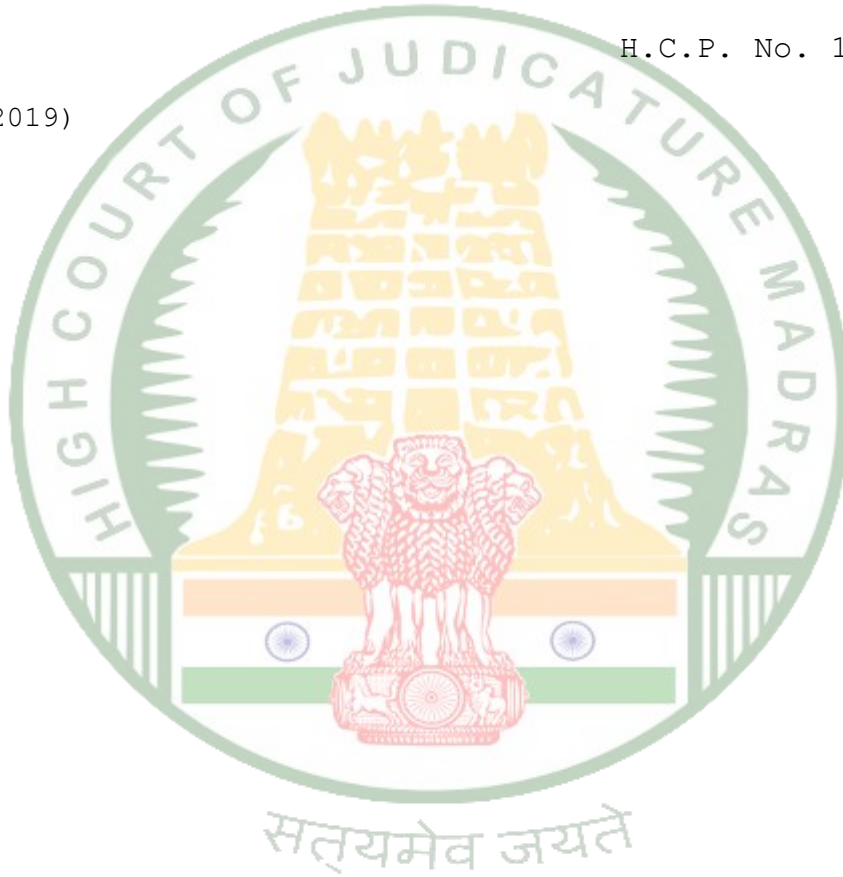
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai -600 009.

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Vijendran, Advocate, SR.No.79485

H.C.P. No. 1342 of 2019

Kak(01/11/2019)



WEB COPY