

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

Coram

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

H.C.P. No. 1648 of 2019

Lavanya

... Petitioner

-vs-

1. Government of Tamil Nadu rep. by its
Secretary, Home, Prohibition and Excise (XVI)
Department, Fort St. George, Chennai - 9.
2. The District Magistrate and
District Collector, Namakkal District. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in C.M.P.No.17/Goonda/2019/M1 dated 10.07.2019 on the file of the second respondent herein and set aside the same and direct the respondents herein to produce the body of the petitioner's husband Raja @ Bharathiraja, aged 33 years, son of Ponnaiyan before this Court, now confined in Central Prison, Salem and set him at liberty.

For Petitioner : Ms.R.Subhadra Devi

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 - Raja @ Bharathiraja, aged 33 years, son of Ponnaiyan. The detenu has been detained by the second respondent by his order in C.M.P.No.17/Goonda/2019/M1 dated 10.07.2019, 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 06.05.2019, the detention order was passed only on 10.07.2019 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 06.05.2019, the order of detention came to be passed only on 10.07.2019 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 C.M.P.No.17/Goonda/2019/M1 dated 10.07.2019, passed by the second respondent is set aside. The detenu, namely, Raja @ Bharathiraja, aged 33 years, son of Ponnaiyan is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm
To

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

2.The District Magistrate and
District Collector, Namakkal District.

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Joint Secretary to Government, Public (Law and order)
Fort.St.George, Chennai 9.

5 The Public Prosecutor,
High Court, Madras.

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A.SK(28/11/2019)



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