

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

Coram

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

H.C.P. No. 1833 of 2019

Karthik

... Petitioner

-vs-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore, Cuddalore District. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 02.05.2019 on the file of the second respondent herein made in proceedings C3/D.O./33/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely, Bala, S/o. Palanisamy, aged 27 years, before this Court and set the petitioner's brother namely Bala, S/o. Palanisamy, aged 27 years before this Court and set the petitioner's brother at liberty from detention, now the petitioner's son detained at Central Prison, Cuddalore.

For Petitioner : Mr.R.Sasikumar

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, Bala, S/o. Palanisamy, male, aged 27 years. The detenu has been

detained by the second respondent by his order in C3/D.O./33/2019 dated 02.05.2019, 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 17.03.2019, the detention order was passed only on 02.05.2019 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 17.03.2019, the order of detention came to be passed only on 02.05.2019 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 C3/D.O./33/2019 dated 02.05.2019 passed by the second respondent is set aside. The detenu, namely, Bala, S/o. Palanisamy, male, aged 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

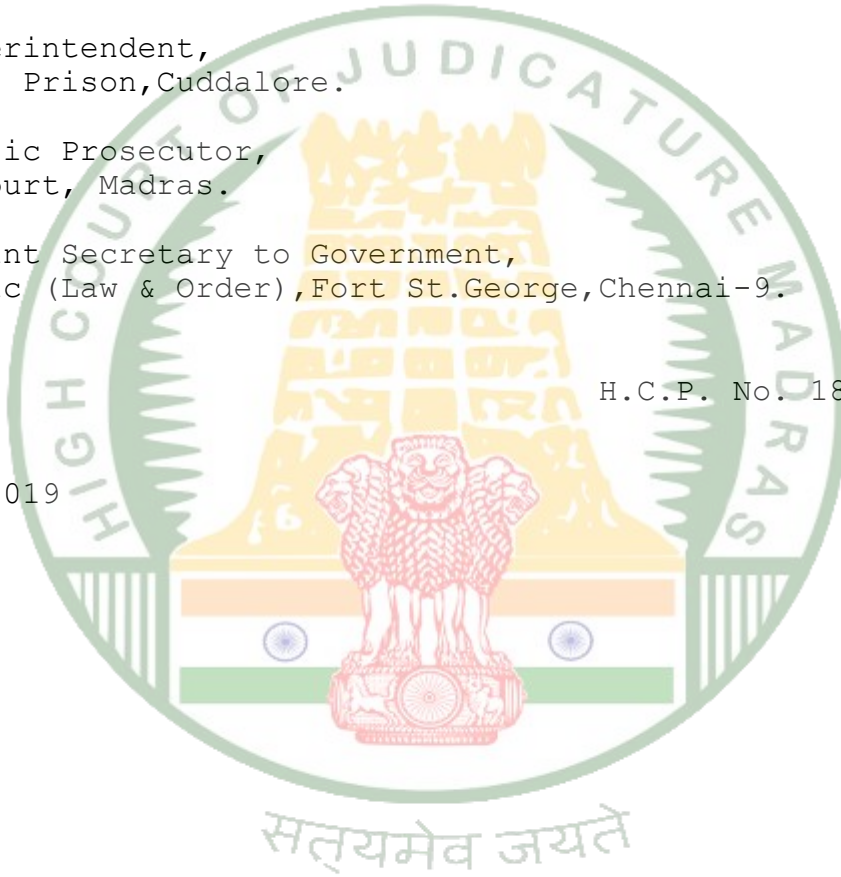
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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Cuddalore, Cuddalore District.
- 3.The Superintendent,
Central Prison,Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.
5. The Joint Secretary to Government,
Public (Law & Order),Fort St.George,Chennai-9.

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