

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.2613 of 2018

Navappan

.. Petitioner

Versus

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent vide No.925/BCDFGISSV/2018 - dated 10/10/2018 the petitioner namely Navappan aged about 29 years, son of Mr.Karuppan who is confined at Central Prison, Puzhal, Chennai - 600 066 and set aside the same and direct the respondents to produce the detenu before this Hon'ble Court and set him at Liberty.

For Petitioner : Mr.S.Rajan Babu

For Respondents: Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

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

The detenu himself is the petitioner and challenging the impugned order of detention dated 10.10.2018 passed by the 2nd respondent by invoking Section 2 (f) of the Tamil Nadu Act 14 of 1982, in branding the detenu as 'Bootlegger', the present Habeas Corpus Petition is filed.

2. A perusal of the grounds of detention would disclose among other things that the detenu came to adverse notice in the following cases:

Sl. No	Crime No.	Section of law
1.	Central Crime Branch Crime No.290/2018	406, 465, 467, 468, 471, 472, 420, 506 (ii) r/w 120 B IPC
2.	Central Crime Branch Crime No.407/2018	419, 420, 465, 468 & 471 IPC

It is further averred in the grounds of detention that on 16.07.2018, the defacto complainant namely Thiru.Balamurugan, resident of Pillaiyar Koil Street, Setharampattu Village and post, Polur Taluk, Thiruvannamalai District, appeared before the 2nd respondent and lodged a complaint against Thiru.Navappan stating that the said person posing himself as an IAS Officer and assured to get Group 1 or Group 2 post and collected a sum of Rs.43,00,000/- from his relatives and friends and as assured, he neither secured job nor returned the money. In this regard, a complaint was lodged, based on which, the Inspector of Police, Job Racket, Team- VIII, Central Crime Branch has registered a case in Central Crime Branch Cr.No.386/2018 under Sections 419, 420, 465, 468, 471 & 506 (i) IPC. The detenu was arrested on 12.09.2018 at about 21.00 hours and he voluntarily came forward to give a confession statement, based on which, some incriminating materials were collected and the detenu was produced before the Court of Metropolitan Magistrate Court for the exclusive trial of CCB cases (relating to cheating cases in chennai) CBCID Metro cases, Periyamedu and he was ordered to be remanded to judicial custody till 28.09.2018.

3. The Detaining Authority, on the basis of materials, formed a subjective satisfaction that the detenu, who has committed the crime, has already come to adverse notice in two cases and his acts are prejudicial to the maintenance of public order and accordingly, clamped the impugned order of Detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4. The learned counsel appearing on behalf of the detenu would submit that for revoking the order of detention, a representation dated 01.11.2018 was submitted and the Under Secretary and the Deputy Secretary had dealt with the said representation on 15.11.2018 and the Honble Minister for (Electricity and Prohibition and Excise) had dealt with the same on 30.11.2018 and there were 14 days delay and excluding 5 days holidays, still there were 9 days delay in considering and

disposing of the said representation. In the absence of any proper or tenable explanation, the said delay is fatal to the impugned order of detention and prays for quashment of the impugned order of detention.

5. Per contra, Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the State would submit that the delay is very minimal and he would further add that the Detaining Authority with due and proper application of mind, has rightly reached the subjective satisfaction and clamped the impugned order of detention and prays for dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the Under Secretary and the Deputy Secretary had dealt with the said representation on 15.11.2018 and the Honble Minister for (Electricity and Prohibition and Excise) had dealt with the same on 30.11.2018 and there were 14 days delay and excluding 5 days holidays, still there were 9 days delay in considering and disposing of the said representation. In the considered opinion of this Court, in the absence of any proper, tenable or plausible explanation, the said delay is fatal to the impugned order of detention for the reason that it is also caused prejudice to the valuable right guaranteed to the detenu under Article 22 of the Constitution of India and on the same ground, the impugned order of detention warrants interference.

8. Accordingly, the Habeas Corpus Petition stands allowed and the Detention Order passed by the second respondent dated 10.10.2018 in No. 925/BCDFGISSSV/2018 is set aside and the detenu is set at liberty forthwith unless his detention / custody is required in connection with any other case / proceedings.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

4.The Superintendent,
Central Prison, Puzhal, Chennai.

5.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai 9.

6.The Public Prosecutor
High Court, Madras.

+1 cc to M/s.Raji & Rajan Associates, Advocate Sr.No.19842

HCP.No.2613 of 2018

SSI (CO)
CSL/26.04.2019



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