



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 31.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

H.C.P. (MD) NO. 126 OF 2019

WEB COPY

Saraswathi

.. Petitioner

- Vs -

1. The Prl. Secretary to the Government
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.

2. The Commissioner of Police
Tiruchirappalli City
Tiruchirappalli District.

3. The Superintendent of Prison
Central Prison, Tiruchirappalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying this Court for the issuance of a writ of habeas corpus calling for the records pertaining to the impugned detention order passed by the 2nd respondent made in proceedings in C.No.03/Detention/C.P.O/T.C./2019 dated 23.1.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Jegadeesh @ Jegan, S/o Muthukumar, now detained at Central Prison, Tiruchirappalli, before this Hon'ble Court and set him at liberty.

For Petitioners : Mr. K.M.Karunakaran

For Respondents : Mr. K.Dinesh Babu, APP

ORDER

(Order of the Court was made by M.Sathyannarayanan, J.)

The petitioner is the mother of the detenu and challenge is made to the impugned order of detention passed by the 2nd respondent dated 23.01.2019 branding the detenu as a Goonda under the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) with a view to preventing him from acting prejudicial to the interest of public health and public order. Aggrieved by the said order, the present petition has been filed.

3. A perusal of the grounds of detention dated 23.1.2019 reveals that the detenu came to adverse notice in the following two cases :-

S. No.	Police Station & Crime No.	Section of Law
1	Tiruchirappalli City Fort PS Cr. No.1151/2017	U/s 294 (b), 302 & 506 (ii) IPC @ 120 (B), 294(b), 302, 506 (ii) r/w 109 IPC
2	Tiruchirappalli City Fort PS Cr. No.1151/2017	U/s 392 r/w 3 (1) of TNP (PD&L) Act, 1992

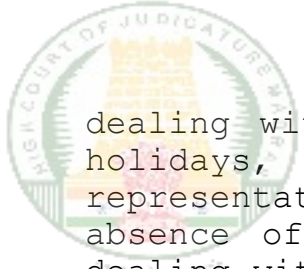
4. It is further stated that the detenu was also involved in the commission of offence in Crime No.3/2019 registered by the Fort (Law & Order) Police Station, Tiruchirappalli City for the commission of offence u/s 294(b), 342 and 392 r/w 397 IPC (ground case). The detenu was arrested on 2.1.19 and later on produced before the Court of Judicial Magistrate No.1, Tiruchirappalli on the same day and remanded to judicial custody till 24.1.19. The Detaining Authority, on being satisfied that the activities of the detenu are prejudicial to the maintenance of public peace and order, had clamped the order of detention challenging which the present petition has been filed.

5. Learned counsel appearing for the petitioner submits that for revoking the order of detention, two post-dated representations, dated 19.2.19 and 20.2.19 were submitted with the Home, Prohibition, Excise XIII Dept., and the inaction in dealing with the representations has caused delay and in the absence of proper explanation, the said delay is fatal to the impugned order of detention and prays for quashment of the same.

6. Per contra, Mr.Dinesh Babu, learned Addl. Public Prosecutor submits that in the facts and circumstances of the case, the delay cannot be construed to be fatal and prays for dismissal of the petition.

7. This Court has carefully considered the rival submissions and perused the materials available on record.

8. A perusal of the work sheet submitted before this Court disclose that the Deputy Secretary, Home, Prohibition & Excise Dept., dealt with the post-dated representations on 8.3.19 and the Hon'ble Minister for Electricity & Prohibition & Excise, dealt with the same on 25.4.19 and, thus, there was a delay of 47 days in



dealing with the said representation and even excluding 17 public holidays, there was a delay of 30 days in dealing with the said representation. In the considered opinion of this Court, in the absence of any proper or tenable explanation as to the delay in dealing with the representation, the constitutional right guaranteed to the detenu under Article 22 (5) of the Constitution of India has been violated and on this sole ground, the impugned order of detention warrants interference.

9. Accordingly, the habeas corpus petition is allowed and the impugned order of detention passed by the 2nd respondent in C.No.03/Detention/C.P.O/T.C./2019 dated 23.1.2019 is set aside. The detenu Jegadeesh @ Jegan, S/o Muthukumar, is directed to be set at liberty forthwith unless his custody/detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

GLN

To

1. The Prl. Secretary to the Government
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.
2. The Commissioner of Police
Tiruchirappalli City
Tiruchirappalli District.
3. The Superintendent of Prison
Central Prison, Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort Saint George,
Chennai.
5. The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

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