



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.09.2019

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND**

**THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
H.C.P. (MD)No.347 of 2019**

Janaki

: Petitioner

Vs.

1. The Commissioner of Police,
Tiruchirappalli City,
Trichy.
2. The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
3. The Superintendent,
Central Prison,
Trichy.
4. The Inspector of Police,
Ariyamangalam Police Station,
Trichy.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed by the first respondent in Detention Order in C.No.13/Detention/C.P.O/T.C/2019 dated 27.03.2019 and quash the same and direct the respondents to produce the body or person of the detenu / petitioner's son namely, Silambarasan, son of Periasamy, aged 29 years, who has been branded as 'GOONDA' and detained in Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner : Mr.T.Senthil Kumar

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

ORDER

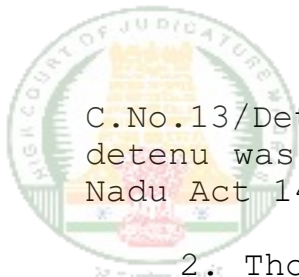
S.VAIDYANATHAN, J.

AND

N.ANAND VENKATESH, J.

This Habeas Corpus Petition is directed against the detention order passed by the first respondent vide proceedings in

<https://hcservices.ecourts.gov.in/hcservices/>



C.No.13/Detention/C.P.O/T.C/2019 dated 27.03.2019, whereby, the detenu was ordered to be detained under the provisions of the Tamil Nadu Act 14 of 1982, branding him as a "GOONDA".

2. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that there is violation of procedural safeguards, which are guaranteed under Articles 21 and 22 of the Constitution of India. The learned counsel would submit that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay. The learned counsel has relied on few Judgments of the Hon'ble Supreme Court. Based on the same, the learned counsel would plead for setting aside the detention order.

3. The learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score, the impugned detention order need not be interfered with, as on account of the said delay, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

4. We have considered the above submissions.

5. In this case, the Detention Order was passed on 27.03.2019. As against the same, the petitioner made a representation on 15.04.2019. The remarks were called for by the Government from the Detaining Authority on 23.04.2019. The remarks were received on 29.04.2019. Thereafter, the Government considered the issue and passed the order rejecting the representation on 20.05.2019. There are totally 19 days delay in considering the representation. It is the contention of the petitioner that excluding 7 days towards public holidays, there was delay of 12 days in considering the representation.

6. Now, the question is as to whether on that score, the impugned order can be quashed.

7. In ***Rekha Vs. State of Tamil Nadu***, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the right to life and liberty of a person is protected, under Article 21 of the Constitution of India. The Hon'ble Supreme Court has further held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities of the detenu.

8. In ***Sumaiya Vs. The Secretary to Government***, [2007 (2) MWN (Cr.) 145], a Division Bench of this Court has held that the



unexplained delay of three days in disposal of the representation made on behalf of the detenu/detenuue would be sufficient to set aside the detention order.

9. In ***Tara Chand Vs. State of Rajasthan and others, [1980 (2) SCC 321]***, the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the detention illegal. This dictum has been followed in several Judgments consistently by the Hon'ble Supreme Court as well as this Court.

10. Applying the said dictum laid down by the Hon'ble Supreme Court, if we look into the facts of the present case, undoubtedly, there is an inordinate and unexplained delay of 12 working days and therefore, the impugned detention order is liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the impugned detention order passed by the first respondent in his proceedings in C.No.13/Detention/C.P.O/T.C/2019, dated 27.03.2019, is quashed. The detenu, namely, Silambarasan, son of Periasamy, aged 29 years, is directed to be released forthwith unless his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Commissioner of Police,
Tiruchirappalli City,
Trichy.
2. The Secretary to Government,
The State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George,
Chennai - 9.
3. The Superintendent,
Central Prison,
Trichy.
4. The Inspector of Police,
Ariyamangalam Police Station,
Trichy.



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

Copy to:

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
H.C.P. (MD) No.347 of 2019
24.09.2019

pjl

MK (24.10.2019) 4P 7C