

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 146 of 2020

Moideen Salman @ Sembo
S/o.Mohammed
Bovikanam House
Balanadukam Post
Mulyar, Kasarcode District
Kerala 671 542.

... Petitioner

-vs-

1.State of Tamil Nadu
Rep by the Secretary, Home
Prohibition and Excise Department
Fort St. George
Chennai-600 009.

2.The Commissioner of Police
Greater Chennai
Vepery, Chennai - 600 007.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records relating to the detention order in Memo No.613/BCDFGISSSV/2019 dated 20.09.2019 passed by the 2nd respondent under the Tamil Nadu Act, 14 of 1982 and set aside the same and direct the respondent to produce the petitioner Thiru.Moideen Salman @ Sembo S/o.Mohammed, aged about 27 years, the detainee, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the petitioner Thiru.Moideen Salman @ Sembo S/o.Mohammed, aged about 27 years, the detainee herein set him liberty.

For Petitioner : M/s.R.Muthukumar

For Respondents : Ms.M.Prabhavathi,
Addl. Public Prosecutor

ORDER

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

The petitioner himself is the detenu. The detenu has been detained by the second respondent by his order in Memo No.613/BCDFGISSSV/2019 dated 20.09.2019, 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 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 06.08.2019, the detention order was passed only on 20.09.2019 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 06.08.2019, the order of detention came to be passed only on 20.09.2019 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 Memo No.613/BCDFGISSSV/2019 dated 20.09.2019 passed by the second respondent is set aside. The detenu, namely, Moideen Salman @ Sembo S/o.Mohammed, aged about

27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

raa/mmi/ssm

To

- 1.The Secretary, Home
Prohibition and Excise Department
Fort St. George
Chennai-600 009.
- 2.The Commissioner of Police
Greater Chennai
Vepery, Chennai - 600 007.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Joint Secretary to Government
Public Law & Order Fort St.George Chennai-9
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 146 of 2020

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