

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

H.C.P. NO.51 OF 2020

Swarna ...Petitioner/Wife of the Detenu

-vs-

1.The Government of Tamil Nadu
rep. by the Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7. ...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records relating to the proceedings of the second respondent in B.C.D.F.G.I.S.S.S.V.No.882/2019 dated 20.12.2019 against the petitioner's husband Ramesh, S/o.Venkateshwaralu, aged about 36 years and quash the same and consequently direct the respondents herein to produce the detenu who is detained under the Tamil Nadu Act 14 of 1982, currently confined at the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner .. Mr.D.Sivachandran
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 wife of Ramesh, S/o.Venkateshwaralu, aged about 36 years, who is the detenu. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.S.V.No.882/2019 dated 20.12.2019, 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 05.11.2019, the detention order was passed only on 20.12.2019 i.e., after a considerable delay of more than a 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 05.11.2019, the order of detention came to be passed only on 20.12.2019 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 B.C.D.F.G.I.S.S.V.No.882/2019 dated 20.12.2019, passed by the second respondent is set aside. The detenu, namely, Ramesh, S/o.Venkateshwaralu, aged about 36 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.

3.The Superintendent,
Central Prison,
Puzhal, Chennai - 66.

4.The Joint Secretary to Government,
Public(Law and Order)Department,
Secretariat, Chennai-600009

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.51 of 2020

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