

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

Coram

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

H.C.P. No. 640 of 2020

Renuka

... Petitioner

-vs-

- 1.The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.
- 2.District Collector and District  
Magistrate of Tiruvannamalai District,  
Tiruvannamalai.
- 3.The Superintendent of Police,  
Tiruvannamalai District,  
Tiruvannamalai.
- 4.The Superintendent of Prison,  
Central Prison, Vellore - 2.
- 5.The Inspector of Police,  
Anakkavur Police Station,  
Tiruvannamalai District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 28.02.2020 in D.O.No.12/2020-C2 against the petitioner's son Manikandan, male, aged 23 years, S/o.Raji, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

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For Petitioner : Mr.D.Balaji

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 mother of the detenu. The detenu has been detained by the second respondent by his order in D.O.No.12/2020-C2 dated 28.02.2020, 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 14.01.2020, the detention order was passed only on 28.02.2020 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 14.01.2020, the order of detention came to be passed only on 28.02.2020 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 D.O.No.12/2020-C2 dated 28.02.2020, passed by the second respondent is set aside. The detenu,

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namely, Manikandan, male, aged 23 years, S/o.Raji, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.
- 2.The District Collector and District  
Magistrate of Tiruvannamalai District,  
Tiruvannamalai.
- 3.The Superintendent of Police,  
Tiruvannamalai District,  
Tiruvannamalai.
- 4.The Superintendent of Prison,  
Central Prison, Vellore - 2.
- 5.The Inspector of Police,  
Anakkavur Police Station,  
Tiruvannamalai District.
- 6.The Joint Secretary,  
Public(Law & Order) Department,  
Secretariat, Chennai.
- 7.The Public Prosecutor,  
High Court, Madras.

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SSI (CO)  
CB(10/12/2020)

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