

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

Coram

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

H.C.P. No. 1146 of 2020

Bharathi

..Petitioner

.Vs.

1. The State Rep. by
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai-600 007.
3. The Superintendent of Police,
N.I.B. - C.I.D., Tamil Nadu Chennai.
4. The Jail Superintendent,
Central Prison, Puzhal, Chennai.
5. The Inspector of Police,
N.I.B. - C.I.D. Chennai-600 039.

.. Respondents

Petition filed under Article 226 of the Constitution of India for issuance of Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 07.02.2020 in BCDFGISSSV No.84/2020 against the petitioner's husband Raja, Male, aged 32 years, S/o.Mani, who is detained in Central Prison - II, Puzhal, Chennai and set aside the detention order and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.K.Selvakumaraswamy

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 Raja, Male, aged 32 years, S/o.Mani, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.84/2020 dated 07.02.2020, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 24.12.2019, the detention order was passed only on 07.02.2020 i.e., after a considerable delay of more than one and half months. 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 24.12.2019, the order of detention came to be passed only on 07.02.2020 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 BCDFGISSSV No.84/2020 dated 07.02.2020, passed by the second respondent is set aside. The detenu, namely, Raja, Male, aged 32 years, S/o.Mani, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

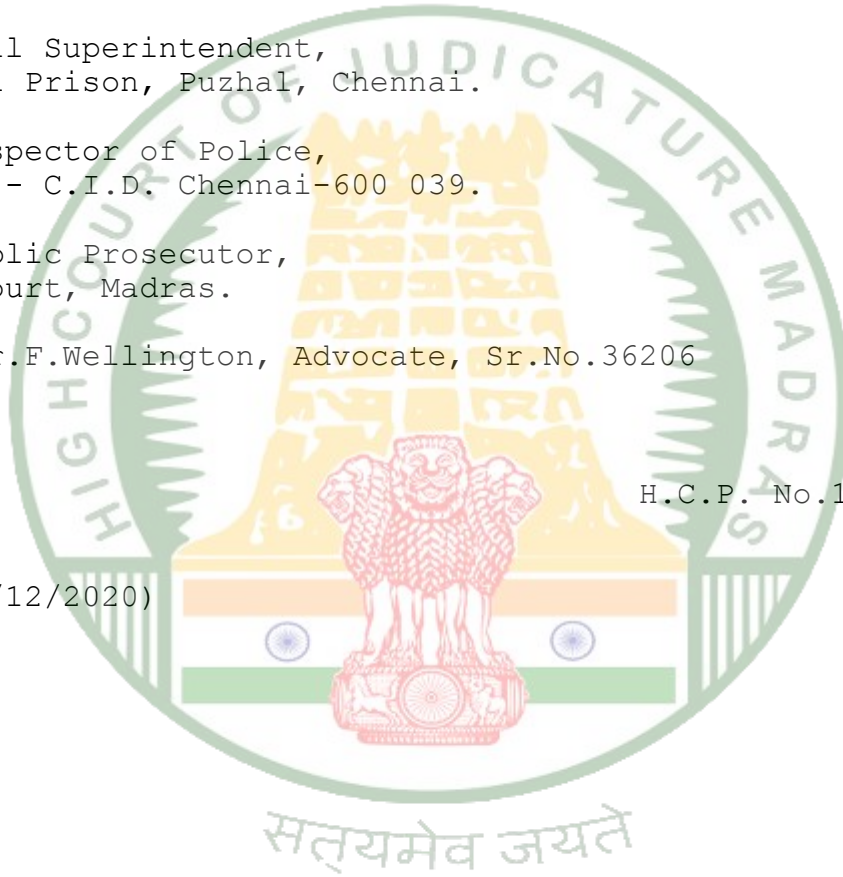
To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai-600 007.
3. The Superintendent of Police,
N.I.B. - C.I.D., Tamil Nadu Chennai.
4. The Jail Superintendent,
Central Prison, Puzhal, Chennai.
5. The Inspector of Police,
N.I.B. - C.I.D. Chennai-600 039.
6. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.F.Wellington, Advocate, Sr.No.36206

H.C.P. No.1146 of 2020

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