

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

Coram

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

H.C.P. No.654 of 2020

Palani Ammal

.. Petitioner

.Vs.

1. The State of Tamil Nadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-600 009
2. Office of the District Magistrate
and District Collector,
Tiruvallur District,
Tiruvallur.
3. The Superintendent of Police,
Thiruvallur District,
Thiruvallur.
4. The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.
5. The Inspector of Police,
C-5, Vengal Police Station,
Thiruvallur District

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records pertaining to the detenu Mr.Sakthivel, S/o.Nethaji, who is detained under Tamil Nadu Act 14 of 1982 as GOONDA at Central Prison, Puzhal, Chennai, by the second respondent herein vide his order in B.C.D.F.G.I.S.S.S.V.No.50/2019, dated 11.12.2019 on the file of the second respondent herein and to quash the same

and direct the respondents herein to provide the body of the detenu Mr.Sakthivel, S/o.Nethaji, aged about 22 years and set him at liberty.

For Petitioner : Mr.P.Thinesh

For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

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

The petitioner, who is the mother of the detenu viz., Sakthivel, S/o.Nethaji, male, aged 22 years, challenges the order of detention dated 11.12.2019 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

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 for the petitioner strongly contended that though the occurrence in the ground case took place on 23.10.2019 and the detenu was arrested on the same day, the detention order was passed only on 11.12.2019 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 in respect of the ground case on 23.10.2019 the order of detention came to be passed only on 11.12.2019 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 BCDFGISSSV No.50/2019 dated 11.12.2019, passed by the second respondent is set aside. The

detenu, namely, Sakthivel, S/o. Nethaji, male, aged 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. Office of the District Magistrate
and District Collector,
Tiruvallur District,
Tiruvallur.
3. The Superintendent of Police,
Thiruvallur District,
Thiruvallur.
4. The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.
5. The Inspector of Police,
C-5, Vengal Police Station,
Thiruvallur District
6. The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary to Government,
Public (Law & Order),
Fort St. George, Chennai-9

H.C.P. No.654 of 2020

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