

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.11.2020

CORAM

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

H.C.P.NO.877 OF 2020

Kaneez Zehara

... Petitioner/
Wife of the Detenu

-vs-

1. State of Tamil Nadu
rep. by The Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.
3. The Inspector of Police,
C2 Elephant Gate Police Station,
Chennai.
4. The Superintendent of Prison,
Central Prison II, Puzhal,
Chennai - 66.

... Respondents

Prayer:-

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 detention order in Memo No.153/BCDFGISSSV/2020 dated 29.02.2020 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband Thiru.Hassain Ali, S/o.Ajaam Ali, aged about 29 years, the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Hassain Ali, S/o.Ajaam Ali, aged about 29 years the detenu herein and set him at liberty.

For Petitioner : Mr.R.Muthukumar

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 the detenu. The detenu has been detained by the second respondent by his order in Memo No.153/BCDFGISSSV/2020 dated 29.02.2020, 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 16.01.2020, the detention order was passed only on 29.02.2020 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 16.01.2020, the order of detention came to be passed only on 29.02.2020 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 Memo No.153/BCDFGISSSV/2020 dated 29.02.2020, passed by the second respondent is set aside. The detenu, namely, Hassain Ali, S/o.Ajaam Ali, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

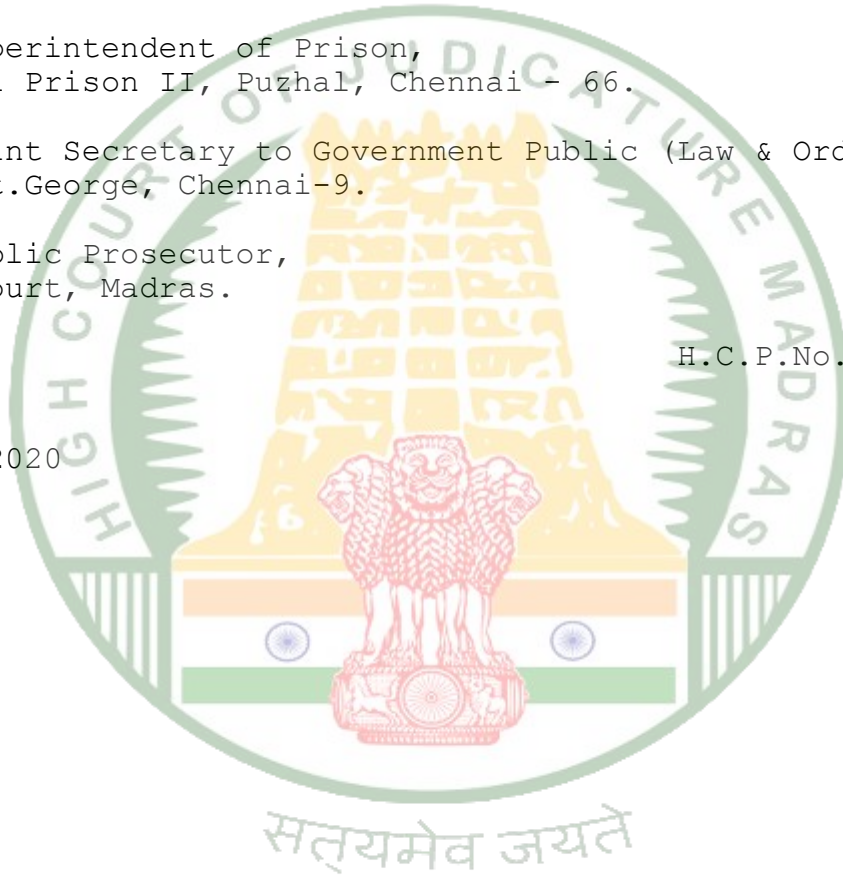
mmi/ssm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai - 7.
3. The Inspector of Police,
C2 Elephant Gate Police Station,
Chennai.
4. The Superintendent of Prison,
Central Prison II, Puzhal, Chennai - 66.
5. The Joint Secretary to Government Public (Law & Order)
Fort St.George, Chennai-9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.No.877 of 2020

VGII(CO)
CS/09/12/2020



WEB COPY