

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

Coram

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

H.C.P. No. 784 of 2020

Palaniammal ...Petitioner/Mother of the Detenue

-vs-

1. State of Tamil Nadu,
Rep. by The Secretary,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
2. The District Collector and
District Magistrate of
Erode District, Erode.
3. The Superintendent of Police,
Erode District, Erode.
4. The Superintendent of Prison,
Central Prison, Coimbatore.
5. The Inspector of Police/
Station House Officer,
Vellithirupur Police Station,
Erode District, Erode.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records relating to the detention order in Cr.M.P.No.14/Goonda/2020/C1, dated 04.05.2020 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son Muthumari @ Surya @ Katna Surya, S/o.Mariappan, aged about 25 years the detenu, now confined in Central Prison, Coimbatore before this Court and set the petitioner's son Muthumari @ Surya @ Katna Surya, S/o.Mariappan, aged about 25 years the detenu herein at liberty.

For Petitioner : Mr.M.Kaveriselvam

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 Cr.M.P.No.14/Goonda/2020/C1, dated 04.05.2020, 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 04.02.2020, the detention order was passed only on 04.05.2020 i.e., after a considerable delay of nearly three 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 04.02.2020, the order of detention came to be passed only on 04.05.2020 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 Cr.M.P.No.14/Goonda/2020/C1, dated 04.05.2020, passed by the second respondent is set aside. The detenu, namely, Muthumari @ Surya @ Katna Surya, S/o.Mariappan,

aged about 25 years the detenu, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009
2. The District Collector and District Magistrate of
Erode District, Erode.
3. The Joint Secretary to Government,
Public (Law&Order) Department,
Fort saint George, Ch-9.
4. The Superintendent of Police,
Erode District, Erode.
5. The Superintendent of Prison,
Central Prison, Coimbatore.
6. The Inspector of Police/Station House Officer,
Vellithirupur Police Station,
Erode District,Erode.
7. The Public Prosecutor,
High Court, Madras.

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SR(CO)
RV(01/12/2020)

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