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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

Coram

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

H.C.P. No. 798 of 2020

Mani

... Petitioner

-vs-

1. State of Tamil Nadu
Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and
District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
3. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
4. The Inspector of Police,
Thanipadi Police Station,
Tiruvannamalai District.
5. The Superintendent,
Central Prison, Vellore.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records relating to petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 29.04.2020 on the file of the second respondent herein made in proceedings in D.O.No.31/2020-C2 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's brother namely Murugan, son of Santhu Nayakkar, aged 34 years, before this Court and set the petitioner's brother at liberty



from detention, now petitioner's brother detained at Central Prison, Vellore.

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For Petitioner .. Mr.M.Mohamed Saifulla
for M/s.C.C.Chellappan

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 brother of Murugan, S/o. Santhu Nayakkar, male, aged 34 years, who is the detenu. The detenu has been detained by the second respondent by his order in D.O.No.31/2020 - C2 dated 29.04.2020 holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 arrested on 25.02.2020, the detention order was passed only on 29.04.2020 i.e., after a considerable delay of nearly two 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 arrested on 25.02.2020, the order of detention came to be passed only on 29.04.2020 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.31/2020 - C2, dated 29.04.2020, passed by the second respondent is set aside. The detenu, namely, Murugan, S/o. Santhu Nayakkar, male, aged 34 years, 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

mmi/ssm

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
- 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Inspector of Police,
Thanipadi Police Station,
Tiruvannamalai District.
- 5.The Superintendent,
Central Prison, Vellore.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No. 798 of 2020

BR(CO)
RMP(01/12/2020)