

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. 804 of 2020

Kamsala

...Petitioner

-vs-

1. State of Tamil Nadu,
Rep. by The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The District Collector and
District Magistrate of
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 calling for the entire records relating to my husband's 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.30/2020-C2, quash the same as illegal and consequently direct the respondents herein to produce my husband namely Ravi, son of Govindasamy, aged 39 years, before this Court and set my husband at liberty from detention, now my husband detained at Central Prison, Vellore.

For Petitioner : Mr.Mohamed Saifullah
for Mr.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 wife of the detenu. The detenu has been detained by the second respondent by his order in D.O.No.30/2020-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 was 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 was 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.30/2020-C2, dated 29.04.2020,

passed by the second respondent is set aside. The detenu, namely, Ravi, son of Govindasamy, aged 39 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,
Secretariat,
Chennai-600 009.
2. The District Collector and
District Magistrate of
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.

सत्यमेव जयते

H.C.P. No.804 of 2020

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

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