

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. 805 of 2020

Gowri

... Petitioner

-vs-

- 1.State of Tamil Nadu,
Rep. by its Secretary to 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
Kannamangalam Police Station,
Tiruvannamalai District.
- 5.The Superintendent,
Central Prison, Vellore.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus calling for the entire records relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 07.05.2020 on the file of the second respondent herein made in proceedings in D.O.No.33/2020-C2 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Santhosh, son of Srinivasan, aged 26 years, before this Court and set the petitioner's husband at liberty from detention, now petitioner's 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.33/2020-C2, dated 07.05.2020, 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 30.01.2020, the detention order was passed only on 07.05.2020 i.e., after a considerable delay of more than 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 30.01.2020, the order of detention came to be passed only on 07.05.2020 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 D.O.No.33/2020-C2, dated 07.05.2020, passed by the second respondent is set aside. The detenu,

namely, Santhosh, son of Srinivasan, male, aged 26 years the detenu, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to 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
Kannamangalam Police Station,
Tiruvannamalai District.
- 5.The Superintendent,
Central Prison, Vellore
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P. No.805 of 2020

svi[col]
srg 06/11/2020

WEB COPY