

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM

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

H.C.P. NO. 814 OF 2020

S.Suganya

...Petitioner

-vs-

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, St. George Fort,
Chennai - 9.
2. The District Collector and District
Magistrate, Nagapattinam District,
Nagapattinam.
3. The Superintendent of Prison,
Central Prison, Cuddalore.
4. The Superintendent of Police,
Nagapattinam District,
Nagapattinam.
5. The Inspector of Police,
Velippalayam Police Station,
Nagapattinam District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the entire records pertaining to the order of detention passed by the second respondent vide his proceedings in C.O.C.No.07/2020 dated 03.03.2020 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Sivanpandi, S/o.Veeraiyan, male, aged 31 years before this Court and set the petitioner's husband, who is presently confined at Central Prison, Cuddalore at liberty from detention.

For Petitioner : Mr.A.Kesavan

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 C.O.C.No.07/2020 dated 03.03.2020, 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 07.01.2020, the detention order was passed only on 03.03.2020 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 07.01.2020, the order of detention came to be passed only on 03.03.2020 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 C.O.C.No.07/2020 dated 03.03.2020, passed by the second respondent is set aside. The detenu, namely, Sivanpandi, S/o.Veeraiyan, male, aged 31 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, St. George Fort, Chennai - 9.
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Nagapattinam.
- 3.The Superintendent of Prison,
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- 5.The Inspector of Police,
Velippalayam Police Station,
Nagapattinam District.
- 6.The Public Prosecutor,
High Court, Madras.

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H.C.P. No.814 of 2020

SS(CO)
KKV/10/12/2020