

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

Coram

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

The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 834 of 2020

Shanmugam

... Petitioner

-vs-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai 600 007.
- 3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai 600 066.
- 4.The Inspector of Police,
R-7 Police Station,
K.K.Nagar, Chennai.
(Crime No.710 of 2019)

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus calling for the records of the 2nd respondent, pertaining to the order made in Memo No. BCDFGISSSV No.44/2020 dated 27.01.2020, in detaining the detenu under the Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondents to produce the detenu, namely, Keeri @ Sivakumar, S/o.Shanmugam, aged about 31 years, detained at the Central Prison, Puzhal, Chennai, before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.Adinarayana Rao

For Respondents : Mr.R.Prathap Kumar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner, who is the father of the detenu viz., Keeri @ Sivakumar, s/o. Shanmugam, male, aged 31 years, challenges the order of detention dated 27.01.2020 passed by the second respondent under Section 2(f) of the Tamil Nadu Act 14 of 1982 branding the detenu as a Goonda.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

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 for the petitioner strongly contended that though the occurrence in the ground case took place on 28.11.2019 and the detenu was arrested on 29.11.2019, the detention order was passed only on 27.01.2020 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 in respect of the ground case on 29.11.2019, the order of detention came to be passed only on 27.01.2020 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 BCDFGISSSV No.44/2020 dated 27.01.2020 passed by the second respondent is set aside. The detenu, namely, Keeri @ Sivakumar, S/o. Shanmugam, male, aged 31 years, is directed to be released forthwith unless his detention is required in connection with any other case.

-s/d-

Assistant Registrar

True Copy

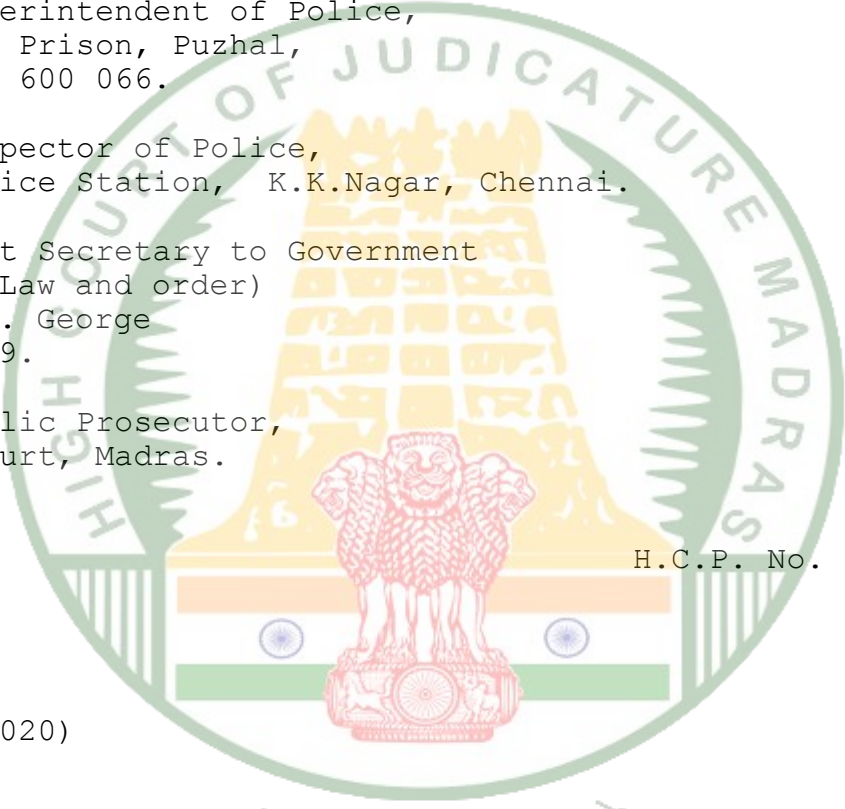
Sub-Assistant Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai, Office of the Commissioner of Police,
(Goondas Section), Vepery, Chennai 600 007.
3. The Superintendent of Police,
Central Prison, Puzhal,
Chennai 600 066.
4. The Inspector of Police,
R-7 Police Station, K.K.Nagar, Chennai.
5. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai-9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 834 of 2020

KK(CO)
SP(04/11/2020)



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