

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

Coram

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

H.C.P.No.982 of 2020

Gulu @ Jidhin

... Petitioner

-vs-

The State rep. By its
+

- 1.The Secretary of Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai.9.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Krishnagiri District, Krishnagiri.
- 3.The Superintendent of Prison,
Central Prison, Salem, Salem District.
- 4.The Superintendent of Police,
O/o.Superintendent of Police,
Krishnagiri District.
- 5.The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records pertaining to the order of detention dated 28.04.2020 passed by the second respondent bearing SC.No.23/2020 and quash the same and produce the detenu Gulu @ Jidhin, S/o.Shaji, aged about 30 years before this Court and set him at liberty forthwith from the Central Prison, Salem.

For Petitioner : Mr.R.Thirumoorthy

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

ORDER

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

The petitioner Gulu @ Jidhin, S/o.Shaji, aged about 30 years himself is the detenu. The detenu has been detained by the second respondent by his order in SC.No.23/2020 dated 28.04.2020, 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 15.02.2020, the detention order was passed only on 28.04.2020 i.e., after a considerable delay of more than 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 15.02.2020, the order of detention came to be passed only on 28.04.2020 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 SC.No.23/2020 dated 28.04.2020, passed by the second respondent is set aside. The detenu, namely, Gulu @ Jidhin, S/o.Shaji, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The Secretary of Government (Home),
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai.9.

2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Krishnagiri District, Krishnagiri.

3.The Superintendent of Prison,
Central Prison, Salem, Salem District.

4.The Superintendent of Police,
O/o.Superintendent of Police,
Krishnagiri District.

5.The Inspector of Police,
Hosur Town Police Station,
Krishnagiri District.

6.The Public Prosecutor,
High Court, Madras.

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SDR 11/12/2020

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