

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. 999 of 2020

Noor Ayisha

... Petitioner/Wife of
the Detenu

-vs-

1. The State of Tamil Nadu,
Rep. by Addl. Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai - 07.
3. The Inspector of Police,
NIBCID, Chennai Unit.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

सत्यमेव जयते... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records of the detention made in BCDFGISSV/No.159/2020 dated 29.02.2020 passed by the Commissioner of Police, Chennai Police the second respondent herein and set aside the same and direct the respondents to produce the detenu Arsath Ali, son of Saleem Khan, aged about 29 years, now confined in Central Prison, Puzhal, before this Court and set the detenu Arsath Ali at liberty.

For Petitioner : Mr.N.Subramani

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 BCDFGISSSV No.159/2020, dated 29.02.2020, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 21.01.2020, the detention order was passed only on 29.02.2020 i.e., after a considerable delay of nearly one month. 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 21.01.2020, the order of detention came to be passed only on 29.02.2020 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 No.BCDFGISSSV/No.159/2020, dated

29.02.2020, passed by the second respondent is set aside. The detenu, namely, Arsath Ali, son of Saleem Khan, male, aged about 29 years, 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

mmi/ssm

To

1. The Addl. Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section),
Vepery, Chennai - 07.
3. The Inspector of Police,
NIBCID, Chennai Unit.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
5. The Joint Secretary to Government
Public (Law & order), Secretariat
Chennai-9.
6. The Public Prosecutor,
High Court, Madras.

+3ccs to Mr. Aswin Raj. J. Advocate, Sr. No. 34955

NRJK (CO)
RMP (02/11/2020)

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