



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2020

CORAM

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

H.C.P.NO.1073 OF 2020

Sangeetha

.. Petitioner

Vs

1. State of Tamilnadu
Rep. by The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
2. The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 07.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 66.
4. The Inspector of Police,
D3, Ice House Police Station,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus to call for the records relating to the detention order in Memo No.131/BCDFGISSSV/2020 dated 25.02.2020 passed by the second respondent to produce the petitioner's husband Premkumar, S/o.Raj Kumar, aged about 26 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Prem Kumar, s/o. Raj Kumar, aged about 26 years the detenu herein at liberty.

For Petitioner : Mr.D.Gopikrishnan

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



after the Deputy Secretary dealt with it, of which 4 days were Government Holidays, hence, there was inordinate delay of 10 days in considering the representation.

7. In *Rekha vs. State of Tamil Nadu* (2011 (5) SCC 244), the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

8. In *Sumaiya vs. The Secretary to Government* (2007 (2) MWN (Cr.) 145), a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In *Tara Chand vs. State of Rajasthan and others*, reported in 1980 (2) SCC 321, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 6 days in submitting the remarks by the Detaining Authority and unexplained delay of 10 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.131/BCDFGISSSV/2020 dated 25.02.2020, passed by the second respondent is set aside. The detenu, namely, Premkumar, S/o.Rajkumar, male, aged 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.



2. The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 07.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 66.
4. The Inspector of Police,
D3, Ice House Police Station,
Chennai.
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government,
Public (Law & Order), Fort St. George,
Chennai-9.

H.C.P.No.1073 of 2020

MG(CO)
CS/06/11/2020