

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

Coram

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

H.C.P. No. 1110 of 2020

Husenaa

... Petitioner

vs

1. State of Tamil Nadu rep. By
The Secretary to Government,
Home Prohibition & Excise Department,
Fort St. George, Chennai -600 009.
2. The Commissioner of Police,
Greater Chennai, Chennai.
3. The Inspector of Police,
NIB CID, Chennai Unit, Chennai.
4. The Superintendent of Prisons,
Central Prison, Puzhal, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus directing the respondents to produce the petitioner's son by name Mohamed Irfan, S/o.Mohamed Bashir, aged about 24 years before this Court, now confined in Central Prison, Puzhal, Chennai, set him at liberty and to call for the records pertaining to the order of detention passed in BCDFGISSSV No.158/2020 dated 29.02.2020.

For Petitioner : Mr.M.S.Ramesh

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 mother of Mohamed Irfan, S/o.Mohamed Bashir, aged about 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in

BCDFGISSSV No.158/2020 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 22.01.2020, the detention order was passed only on 29.02.2020 i.e., after a considerable delay of more than 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 22.01.2020, 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 BCDFGISSSV No.158/2020 dated 29.02.2020., passed by the second respondent is set aside. The detenu, namely, Mohamed Irfan, S/o. Mohamed Bashir, aged about 24 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 Secretary to Government,
Home Prohibition & Excise Department,
Fort St. George, Chennai -600 009.

2.The Commissioner of Police,
Greater Chennai, Chennai.

3.The Inspector of Police,
NIB CID, Chennai Unit, Chennai.

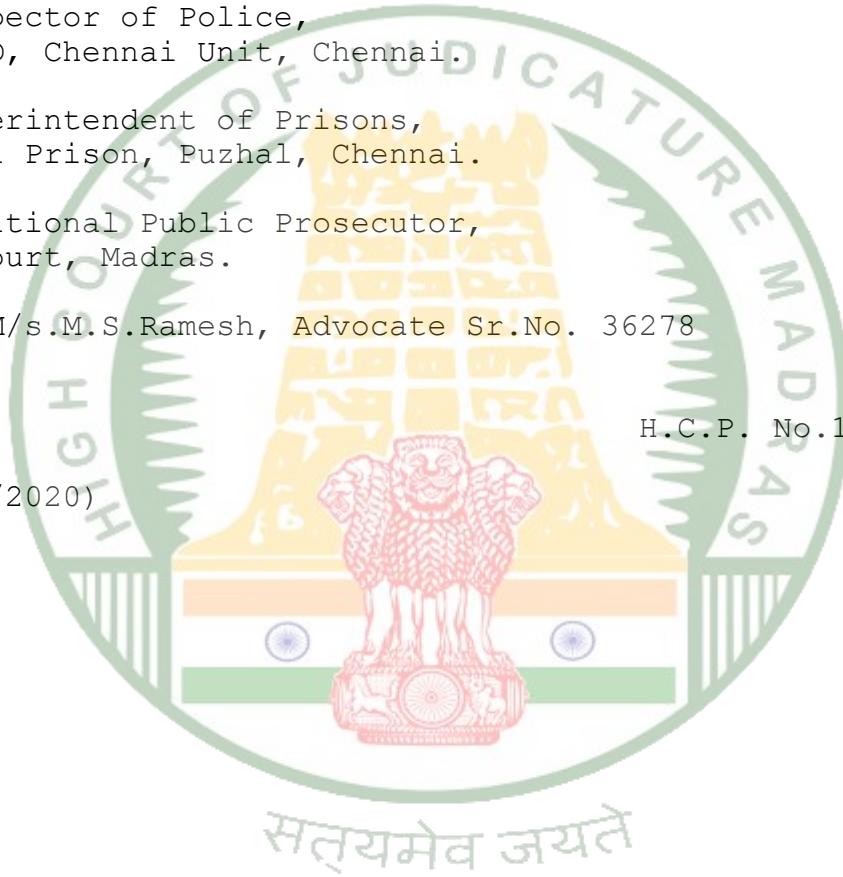
4.The Superintendent of Prisons,
Central Prison, Puzhal, Chennai.

5.The Additional Public Prosecutor,
High Court, Madras.

+1 cc to M/s.M.S.Ramesh, Advocate Sr.No. 36278

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RR(CO)
RMP(08/12/2020)



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