

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

Coram

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

H.C.P. No. 1187 of 2020

Soundharya

...Petitioner

Vs

1. The State of Tamilnadu, rep. By its,
Secretary to the Government (Home),
Prohibition and Excise Department,
Fort St. George, Chennai -9.
2. The Commissioner of Police, Salem City.
3. The Superintendent of Prison,
Central Prison- Salem, Salem District.
4. The State rep. By its, Inspector of Police,
Annadhanapattu Police Station,
Salem District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records in connection with the order of Detention passed by the second respondent dated 19.06.2020 in C.M.P. No. 39/Goonda/Salem City/2020 against the petitioner's husband namely Prabakaran aged about 28 years, S/o. VEDIYAPPAN, who is confined at Central Prison, Salem and set aside the same and consequently, direct the respondents to produce the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr. R. Nalliyappan

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 Prabakaran aged about 28 years, S/o. VEDIYAPPAN, who is the detenu. The detenu has been detained by the second respondent by his order in C.M.P. No. 39/Goonda/Salem City/2020 dated 19.06.2020, 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 07.05.2020, the detention order was passed only on 19.06.2020 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 07.05.2020, the order of detention came to be passed only on 19.06.2020 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 C.M.P. No. 39/Goonda/Salem City/2020 dated 19.06.2020, passed by the second respondent is set aside. The detenu, namely, Prabakaran aged about 28 years, S/o. VEDIYAPPAN, 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 the Government (Home)
The State of Tamilnadu,
Prohibition and Excise Department,
Fort St. George, Chennai -9.
2. The Commissioner of Police, Salem City.
3. The Superintendent of Prison,
Central Prison- Salem, Salem District.
4. The State rep. By its, Inspector of Police,
Annadhanapattu Police Station,
Salem District.
5. The Public Prosecutor,
High Court, Madras.
6. The District Collector cum District Magistrate,
Salem.
7. The Secretary to Government,
Public (law and order) Department,
Secretariat,
Chennai.

सत्यमेव जयते

H.C.P. No.1187 of 2020

CO (RV)
BDL/18/01/2021

WEB COPY