

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

Coram

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

H.C.P. No.1232 of 2020

Manjula

... Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.District Collector & District Magistrate,
Kancheepuram District, Kancheepuram.
- 3.The Superintendent of Police,
Kancheepuram District, Kancheepuram.
- 4.The Superintendent of Prison,
Central Prison, Vellore – 2.
- 5.The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Habeas Corpus to call for the records in
Connection with the order of Detention passed by the second
respondent 08.03.2020 in B.C.D.F.G.I.S.S.S.V. No.16/2020 against the

petitioner Son Parthiban, Male aged 23 years S/o.Sivakumar, who is confined at Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before this Court and set him at Liberty

For Petitioner : Mr.S.Senthilvel

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 Parthiban, aged 23 years S/o.Sivakumar, who is the detenu. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.S.V. No.16/2020 dated 08.03.2020, 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 19.01.2020, the detention order was passed only on 08.03.2020 i.e., after a considerable delay of nearly 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 19.01.2020, the order of detention came to be passed only on 08.03.2020 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 B.C.D.F.G.I.S.S.S.V. No.16/2020 dated

Page 3 of 5

08.03.2020, passed by the second respondent is set aside. The detenu, namely, Parthiban, aged 23 years S/o.Sivakumar, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.M.S.,J.) (D.K.K.,J.)
23.11.2020

Index: Yes/No
mmi/ssm

To

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- 5.The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
- 6.The Public Prosecutor,
High Court, Madras.

HCP No.1232 of 2020

**M.M.SUNDRESH, J.
and
D.KRISHNAKUMAR, J.**

mmi/ssm



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