

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

H.C.P. No. 1252 of 2020

R. Maragatham

..Petitioner/Father of
the detenu

.Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Superintendent of Police,
Krishnagiri District, Krishnagiri.
5. The Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Habeas Corpus to call for the entire records from the 2nd respondent in connectin with the order in S.C. No. 27 of 2020 dated 08.05.2020, quash the same and produce the petitioner's friend namely, Arun, S/o. Selvappa, aged 24 years, now confined in Central Prison, Salem under Tamil Nadu Act 14 of 1982 before this Hon'ble Court.

For Petitioner : Mr.P. Pugalenth

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

O R D E R
(Order of the Court was made by M.M. SUNDRESH, J.)

The petitioner is the friend of the detenu. The detenu has been detained by the second respondent by his order in S.C. No. 27 of 2020 dated 08.05.2020 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 10.03.2020, the detention order was passed only on 08.05.2020 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 10.03.2020, the order of detention came to be passed only on 08.05.2020 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 S.C. No. 27 of 2020 dated 08.05.2020, passed by the second respondent is set aside. The detenu, namely, Arun, S/o. Selvappa, aged 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District
Magistrate,
Krishnagiri District, Krishnagiri.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Superintendent of Police,
Krishnagiri District, Krishnagiri.
5. The Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.
6. The Joint Secretary to Government,
(Law & Order) Department
Fort St. George, Chennai-9
7. The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1252 of 2020

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