

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.No.1229 of 2020

Ajaikushwa

.. Petitioner/Detenuue

Vs

- 1.The Secretary to Government, .. Respondents
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Salem City, Salem District.
- 3.The Superintendent of Prison,
Central Prison, Salem,
Salem District.
- 4.State rep. by its
The Inspector of Police,
Steel Plant Police Station,
Salem District.

Petition under Article 226 of the Constitution of India praying for issue of a Writ of Habeas Corpus to call for the entire records, relating to the petitioner detention under Tamil Nadu Act 14 of 1982 vide detention order dated 08.05.2020 on the file of the 2nd respondent herein made in proceedings memo C.M.P. No. 19/Goonda/Salem City/2020, quash the same as illegal and consequently direct the respondents herein to produce the petitioner namely Ajaikushwa, S/o. Kedarsingh, aged 26 years, before this Hon'ble High Court and set the petitioner at liberty from detention, now the petitioner detained at Central Prison, Salem.

For Petitioner :: Mr.W.Camyles Gandhi

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 detenu himself. The detenu has been detained by the second respondent by his order in C.M.P. No. 19/Goonda/Salem City/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 C.M.P. No. 19/Goonda/Salem City/2020, passed by the second respondent is set aside. The detenu, namely, Ajaikushwa, S/o. Kedarsingh, aged about 26 years is directed to be released forthwith unless his detention is required in connection with any other case.

-sd/-

Assistant Registrar (cs)

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Sub Assistant Registrar

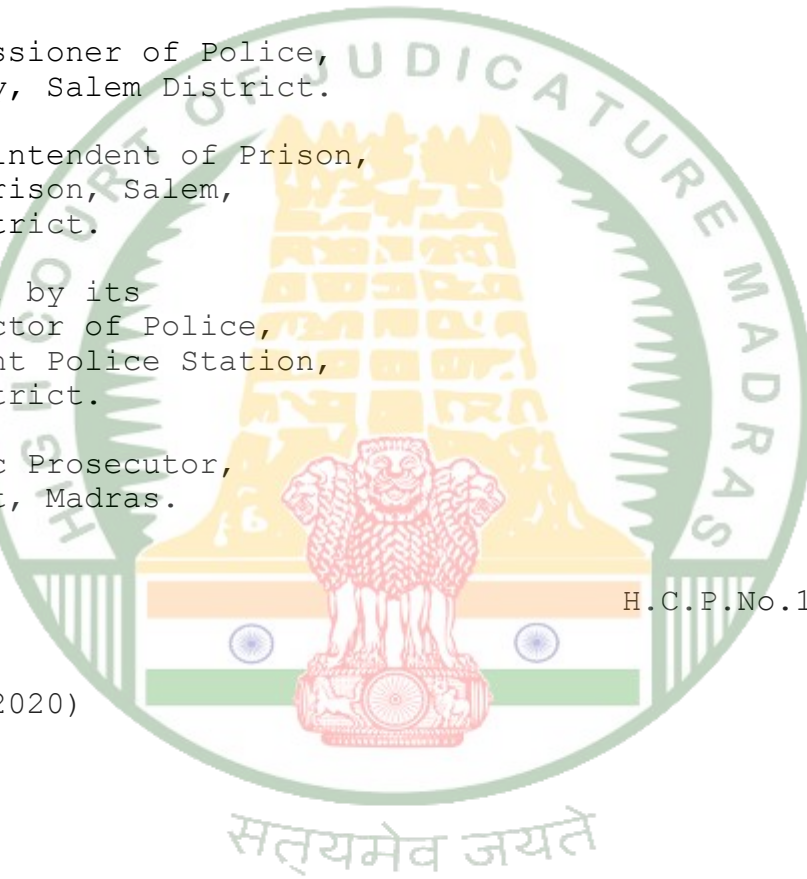
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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Joint Secretary to Government,
Public (Law and Order),
Fort.St.George,
Chennai - 600 009.
- 3.The Commissioner of Police,
Salem City, Salem District.
- 4.The Superintendent of Prison,
Central Prison, Salem,
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- 5.State rep. by its
The Inspector of Police,
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- 6.The Public Prosecutor,
High Court, Madras.

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PVS (CO)
UMY (19/12/2020)



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