

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. 1333 of 2020

V. Ezhilarasi

... Petitioner/Mother of the Detenue

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District
Magistrate,
Cuddalore District, Cuddalore.
3. The Superintendent of Police,
Cuddalore District, Cuddalore.
4. The Superintendent,
Central Prison, Cuddalore -4.
5. The Inspector of Police,
Neyveli Township Police Station,
Cuddalore 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 records in C3/D.O/42/2020 dated 23.04.2020 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce the petitioner's son Thiru. Bharathi, S/o. Velchandran, aged about 21 years, who now detained in Central Prison, Cuddalore, before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.K. Gandhi Kumar

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 mother of the detenu. The detenu has been detained by the second respondent by his order in C3/D.O/42/2020 dated 23.04.2020 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 07.03.2020, the detention order was passed only on 23.04.2020 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 07.03.2020, the order of detention came to be passed only on 23.04.2020 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 C3/D.O/42/2020 dated 23.04.2020, passed by the second respondent is set aside. The detenu, namely, Bharathi, S/o. Velchandran, aged about 21 years is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

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

H.C.P. No. 1333 of 2020

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