

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. 1386 of 2020

Sagunthala

..Petitioner

Vs.

- 1.The Union of India,
rep. by its Secretary,
Home Department,
Govt. Of Puducherry,
Puducherry.
- 2.The Chief Secretary to Government,
Government of Puducherry.
- 3.District Magistrate cum
Authorized Officer,
Puducherry.
- 4.The Senior Superintendent of
Police (L & O),
Puducherry.
- 5.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
- 6.Union Territory rep. by
Inspector of Police,
Mangalam Police Station,
Puducherry.

..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 of the 3rd respondent in his proceeding in No.03/DM/RO/D2/PPASAA/2020 dated 12.01.2020, to quash the same and consequently direct the respondents to produce the detenu, Thiru Vinayagam @ Vinayagamoorthy, S/o. Segar aged about 28 years, now confined in Central Prison, Kalapet, Puducherry, set him at liberty forthwith.

For Petitioner :: Mr.K. Gandhi Kumar

For Respondents:: Mr.V. Balamurugan
Addl. Public Prosecutor
(Puducherry)

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 third respondent by his order in No.03/DM/RO/D2/PPASAA/2020 dated 12.01.2020 holding him to be a "Dangerous Person", as contemplated under Section 3(1) of Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010). 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 26.10.2019, the detention order was passed only on 12.01.2020 i.e., after a considerable delay of more than 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 26.10.2019, the order of detention came to be passed only on 12.01.2020 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 No.03/DM/RO/D2/PPASAA/2020 dated 12.01.2020 passed by the third respondent is set aside. The detenu, namely, Vinayagam @ Vinayagamoorthy, S/o. Segar, aged 28 years, 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

To

1. The Secretary,
Home Department,
Govt. Of Puducherry,
Puducherry.
2. The Chief Secretary to Government,
Government of Puducherry.
3. District Magistrate cum
Authorized Officer,
Puducherry.
4. The Senior Superintendent of
Police (L & O),
Puducherry.
5. The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
6. Union Territory rep. by
Inspector of Police,
Mangalam Police Station,
Puducherry.
7. The Public Prosecutor,
Puducherry.

H.C.P. No. 1386 of 2020

EV (CO)
RV (22/12/2020)

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