

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

Coram

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

H.C.P. No. 1494 of 2020

Sagaitha

... Petitioner

-vs-

The State Rep. By its

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamilnadu,
Fort St. George, Chennai.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Tiruppur District,
Tiruppur.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.
- 4.The Superintendent of Police,
O/o. Superintendent of Police,
Tiruppur District.
- 5.The Inspector of Police,
Udumalaipettai All Women Police Station,
Tiruppur District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records pertaining to the order of detention dated 18.03.2020 passed by the 2nd respondent bearing No. Cr.M.P.No.09/Sexual Offender/2020 and quash the same and produce the detenu Mohamed Ismail alias Ismail, aged about 24 years, S/o.Abubakkar Siddiq, before this Court and set him at liberty forthwith from Central Prison, Coimbatore.

Page numbers

For Petitioner : Mr.R.Thirumoorthy

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 the detenu. The detenu has been detained by the second respondent by his order in Cr.M.P.No.09/Sexual Offender/2020 dated 18.03.2020, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 24.07.2018, the detention order was passed only on 18.03.2020 i.e., after a considerable delay of more than one and half years. 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 24.07.2018, the order of detention came to be passed only on 18.03.2020 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 Cr.M.P.No.09/Sexual Offender/2020 dated 18.03.2020 passed by the second respondent is set aside. The detenu, namely, Mohamed Ismail alias Ismail, aged about 24

Page numbers

years, S/o.Abubakkar Siddiq, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamilnadu,
Fort St. George, Chennai.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Tiruppur District, Tiruppur.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.
- 4.The Superintendent of Police,
O/o. Superintendent of Police,
Tiruppur District.
- 5.The Inspector of Police,
Udumalaipettai All Women Police Station,
Tiruppur District.
- 6.The Public Prosecutor,
High Court, Madras.
- 7.The Joint Secretary to Govt.,
Public(Law & Order)
Fort St.George, Chennai-9.

RGN(CO)
CB(11/01/2021)

H.C.P. No.1494 of 2020

Page numbers