

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

Coram

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

H.C.P. No. 1531 of 2020

S. Tamilselvi

...Petitioner

Vs

1. The State rep. By The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
2. The Commissioner of Police,
Salem District, Salem.
3. The Superintendent of Prison,
Central Prison, Salem District.
4. The Inspector of Police,
Annadanapatty Police Station, Salem District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, to call for the records in C.M.P.No.29/Goonda/Salem City/2020 dated 30.05.2020, on the file of the Commissioner of Police, Salem City, Salem, the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Sambu @ Shanmugam S/o. Anbazhagan aged about 32 years, now confined at Central Prison, Salem, before this Court and set him at liberty.

For Petitioner : Mr. S. Rajanikanth

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 wife of Sambu @ Shanmugam S/o. Anbazhagan aged about 32 years, who is the detenu. The detenu has been detained by the second respondent by his order in

C.M.P.No.29/Goonda/Salem City/2020 dated 30.05.2020, 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 20.03.2020, the detention order was passed only on 30.05.2020 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 20.03.2020, the order of detention came to be passed only on 30.05.2020 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.29/Goonda/Salem City/2020 dated 30.05.2020, passed by the second respondent is set aside. The detenu, namely, Sambu @ Shanmugam S/o. Anbazhagan aged about 32 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

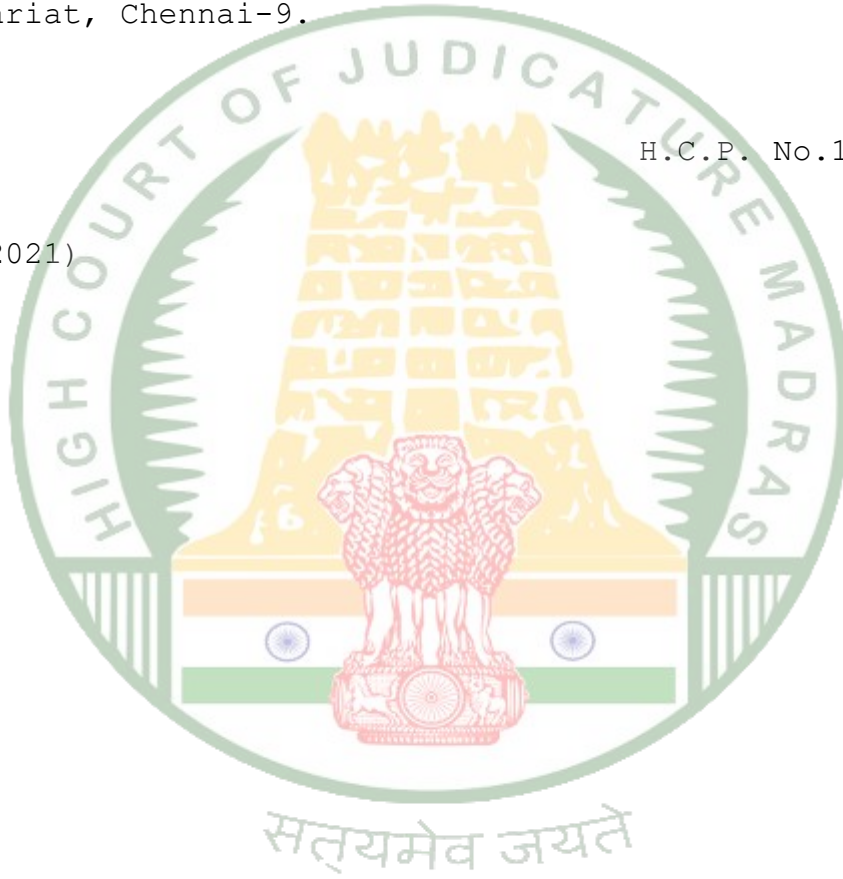
To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
2. The Commissioner of Police,
Salem District, Salem.

3. The Superintendent of Prison,
Central Prison, Salem District.
4. The Inspector of Police,
Annadanapatty Police Station, Salem District.
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary to Government
Public(Law & Order) Department,
Secretariat, Chennai-9.

H.C.P. No.1531 of 2020

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