

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

Coram

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

H.C.P. No. 1581 of 2020

Saraswathi

... Petitioner

-vs-

- 1.The State of Tamil Nadu
Rep by its Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George,
Secretariat, Chennai - 09.
 - 2.The District Collector and
District Magistrate,
Vellore, Vellore District.
 - 3.The Superintendent of Police,
Vellore District,
Vellore.
 - 4.The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.
 - 5.The Inspector of Police,
Vellore North Crime Police Station,
Vellore District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to call for the records in connection with the order of detention passed by the 2nd respondent dated 18.02.2020 in his office Ref.C3.D.O.No.18/2020 against the petitioner's son by name Sathish, S/o.Srinivasan, aged about 24 years, now under the custody of the 4th respondent namely, Central Prison, Vellore, Vellore District and set aside the same and direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan

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 C3/D.O.No.18/2020, dated 18.02.2020, 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 15.01.2020, the detention order was passed only on 18.02.2020 i.e., after a considerable delay of one month. 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 15.01.2020, the order of detention came to be passed only on 18.02.2020 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.No.18/2020 dated 18.02.2020, passed by the second respondent is set aside. The detenu, namely, Sathish, S/o.Srinivasan, aged about 24 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

ssm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George,
Secretariat, Chennai - 09.
- 2.The District Collector and
District Magistrate,
Vellore, Vellore District.
- 3.The Superintendent of Police,
Vellore District,
Vellore.
- 4.The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.
- 5.The Inspector of Police,
Vellore North Crime Police Station,
Vellore District.
- 6.The Public Prosecutor,
High Court, Madras.
- 7.The Joint Secretary L & O Department
Secretariat, Chennai.

H.C.P. No. 1581 of 2020

RSV (CO)

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