

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

Coram

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

H.C.P. No. 1746 of 2020

M.Venkatesan

... Petitioner

Vs

- 1.The State of Tamilnadu, rep. By its,
Secretary to the Government (Home),
Prohibition and Excise Department,
Fort St. George, Chennai -9.
- 2.The District Collector and District Magistrate
of Kancheepuram District,
Kancheepuram District.
- 3.The Superintendent of Police,
Kancheepuram District, Kancheepuram.
- 4.The Superintendent of Prison,
Central Prison, Vellore.
- 5.The Inspector of Police,
Walajabad Police Station,
Kancheepuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records pertaining to the detention order BCDFGISSSV No.17/2020 dated 17.03.2020 passed by the 2nd respondent and quash the same and issue direction to produce the body of the detenu namely Naveshraj, aged 23 years, son of Venkatesan, presently confined at Central Prison, Vellore before this Court and set him at liberty forthwith.

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For Petitioner : Mr.T.Meganathan

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 father of Naveshraj, aged 23 years, son of Venkatesan, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.17/2020 dated 17.03.2020, 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 06.02.2020, the detention order was passed only on 17.03.2020 i.e., after a considerable delay of nearly 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 06.02.2020, the order of detention came to be passed only on 17.03.2020 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 BCDFGISSSV No.17/2020 dated 17.03.2020, passed by the second respondent is set aside. The detenu, namely, Naveshraj, aged 23 years, son of Venkatesan, is

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directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Secretary to the Government (Home),
Prohibition and Excise Department,
Fort St. George, Chennai -9.
- 2.The District Collector and District Magistrate
of Kancheepuram District,
Kancheepuram District.
- 3.The Superintendent of Police,
Kancheepuram District, Kancheepuram.
- 4.The Superintendent of Prison,
Central Prison, Vellore.
- 5.The Inspector of Police,
Walajabad Police Station,
Kancheepuram District.
- 6.The Public Prosecutor,
High Court, Madras.

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MG (CO)
CB (19/01/2021)

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