

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

H.C.P.NO.2090 OF 2020

Karthika

... Petitioner

-vs-

1. State of Tamil Nadu
Rep. by its Additional Chief Secretary,
Home, Prohibition and Excise Department,
Government of Tamilnadu, Chennai - 09.
2. The District Collector,
District Magistrate, Ariyalur District,
Ariyalur Town.
3. The Superintendent of Police,
Ariyalur (District), Ariyalur.
4. The Superintendent,
Central Prison, Triuchirappalli.
5. The Inspector of Police,
Keelpalur Police Station,
Keelpalur, Chennai.

... Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus directing the third respondent herein to produce the body of the petitioner's husband M.Karthick, M/A 33 years, S/o.Maruthai, who has been confined at Central Prison, Thiruchirappalli, as a Goonda, as per the order of the detention made in Cr.M.P.No. 35/2019 dated 07.12.2019, by the second respondent District Collector & District Magistrate, Ariyalur District, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.Balamurugan

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 the detenu. The detenu has been detained by the second respondent by his order in Cr.M.P.No. 35/2019 dated 07.12.2019, 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 17.10.2019, the detention order was passed only on 07.12.2019 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 17.10.2019, the order of detention came to be passed only on 07.12.2019 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.35 of 2019 dated 07.12.2019, passed by the second respondent is set aside. The detenu, namely, Karthick, son of Maruthai, male, aged 33 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamilnadu, Chennai - 09.
2. The District Collector,
District Magistrate, Ariyalur District,
Ariyalur Town.
3. The Superintendent of Police,
Ariyalur (District), Ariyalur.
4. The Superintendent,
Central Prison, Triuchirappalli.
5. The Inspector of Police,
Keelpalur Police Station,
Keelpalur, Chennai
6. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Secretariat,
Chennai-600 009.
7. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2090 of 2020

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CS/16/12/2020



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