

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN
H.C.P.No.2290 of 2019

Praveenkumar ... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Erode, Erode District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 24.09.2019 on the file of the second respondent herein made in proceedings Memo Cr.M.P. No.25/Goonda/2019/C1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely Rajeshkumar @ Rajesh, S/o.Radhakrishnan, aged 27 years before this Court and set the petitioner's brother at liberty from detention, now the petitioner's brother detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.R.Prathap Kumar
Additional Public Prosecutor

O R D E R

[Order of this Court was made by R.SUBBIAH, J]

Petitioner is the brother of the detenu viz., Rajeshkumar @ Rajesh, S/o.Radhakrishnan, aged 27 years, who has been branded as a 'Goonda' under the Tamil Nadu Act 14 of 1982 and detained under order of second respondent passed in Cr.M.P. No.25/Goonda/2019/C1 dated 24.09.2019.

2. The alleged ground case has been registered against the detenu in Crime No.227 of 2018 on the file of Appakoodal Police Station for offences u/s. 364(A) IPC. Aggrieved by the order of detention, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondents. Perused the materials on record.

4.Learned counsel for petitioner submits that the arrest of the detenu in the ground case has taken place on 28.06.2019, whereas the detention order was passed on 24.09.2019 i.e. after a lapse of 90 days. Learned counsel informs that the inordinate delay in passing of detention order adversely has affected his right of making an effective representation.

5.A perusal of the grounds of detention as well as the detention order passed by the detaining authority would show that the same was passed on 24.09.2019, but a perusal of the grounds of detention in particular paragraph No.3(vi) would show that the arrest in the ground case took place on 28.06.2019. This shows an inordinate delay of 90 days in passing the detention order and the same would vitiate the order of detention. For the aforesaid reasons, this Court would allow the present petition.

Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent against the detenu viz., Rajeshkumar @ Rajesh, S/o.Radhakrishnan, aged 27 years in Cr.M.P. No.25/Goonda/2019/C1 dated 24.09.2019, is set aside. The above named detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other cases.

Sd/-

Assistant Registrar(CCC)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Erode, Erode District.
- 3.The Superintendent, Central Prison, Coimbatore.
- 4.The Public Prosecutor, High Court, Madras.

AKM/19.03.2020 /2P-5C/

H.C.P.No.2290 of 2019