

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MS. JUSTICE P.T.ASHA

H.C.P.NO.2553 OF 2019

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...Petitioner

-vs-

1.State of Tamil Nadu
represented by Secretary to Government,
Home, Prohibition and Excise Department
Fort St.George
Chennai-600 009

2.Commissioner of Police
Greater Chennai Police
Chennai-7

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order passed by the second respondent pertaining to the order made in BCDFGISSSV No.627/2019 dated 30.09.2019 in detaining the detenu under 2(b) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondent to produce the detenu Surya, S/o.Murugan, aged about 22 years, who is detained at Central Prison, Puzhal, Chennai, before this Honourable Court and set him liberty.

For Petitioner .. Mr.A.Veeran
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 Surya, male, aged 22 years, S/o.Murugan, who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.627/2019 dated 30.09.2019, holding him to be a "Goonda", as contemplated under Section 2(f) of the 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 19.08.2019, the detention order was passed only on 30.09.2019 i.e., after a considerable delay of nearly 1 1/2 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 surrendered on 19.08.2019, the order of detention came to be passed only on 30.09.2019 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 BCDFGISSSV No.627 of 2019 dated 30.09.2019, passed by the second respondent is set aside. The detenu, namely, Surya, male, aged 22 years, S/o. Murugan, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi/ms

To

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

2. The Commissioner of Police
Greater Chennai Police
Chennai-7

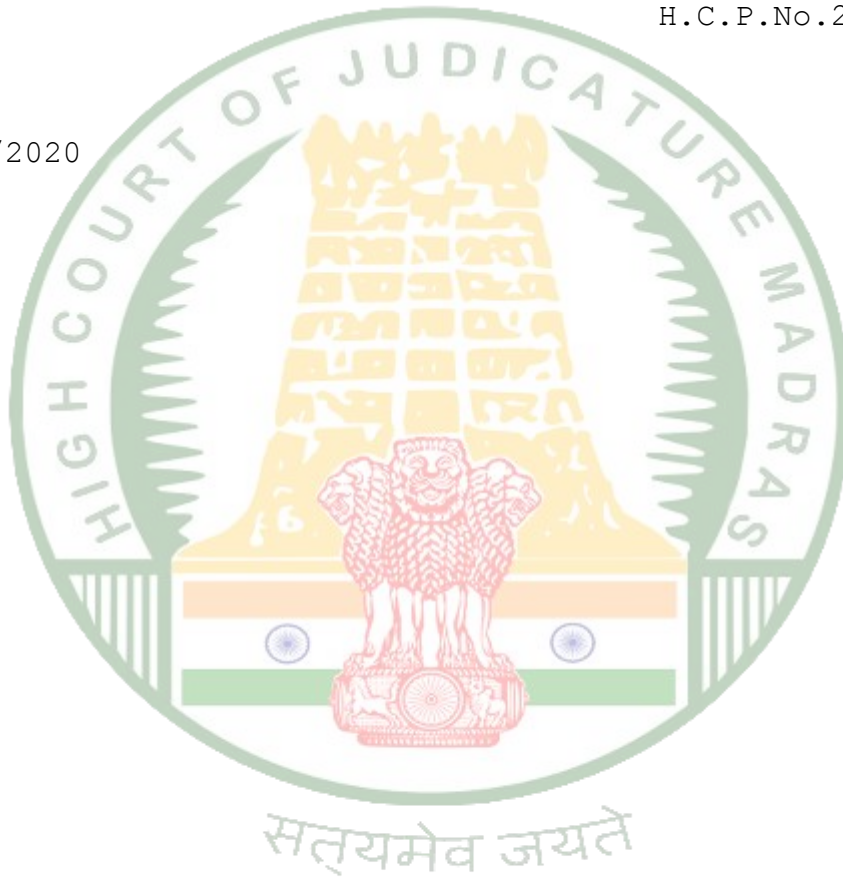
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2553 of 2019

RGN (CO)
KKV/25/09/2020



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