

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.2564 of 2019

C.Padmanaban

... Petitioner

Vs

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
 2. The Commissioner of Police / Detaining authority,
Tiruppur City,
Tiruppur District.
- ... Respondents

PRAYER : HCP filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the entire records relating to the petitioner's brother detention under Tamil Nadu Act 14 of 1982 vide detention order dated 30.10.2019 on the file of the second respondent herein made in proceeding Memo C.No.14/G/IS/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's brother namely Vicky @ Vignesh @ Vigneshwaran, S/o.Chidambaram, aged about 24 years before this Hon'ble High 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 the court was made by N.KIRUBAKARAN.J.,)

This Petition has been filed challenging the detention order passed by the second respondent on 30.10.2019 branding the petitioner's brother viz., Vicky @ Vignesh @ Vigneshwaran S/o.Chidambaram as 'Goonda'.

2.The petitioner's brother has been charged for offence under Sections 294 (b), 506 (2), 302 of Indian Penal Code and 3 (i) of Tamil Nadu Properties (Prevention of Damage and Loss) Act 1992 for having murdered one Mr.Balamurugan in collusion with the other accused. Therefore, First Information Report has been registered in Cr.No.895 of 2019 on the file of the Tiruppur North Police Station. Considering the above case against the petitioner's brother, the second respondent detained the petitioner's brother under Tamil Nadu Act 14 of 1982 by order dated 30.10.2019.

3.Heard Mr.W.Camyles Gandhi, learned Counsel for the petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor for the respondents.

4.Mr.W.Camyles Gandhi, learned Counsel for the petitioner would submit that the bail petition was already dismissed and therefore, there is no scope of coming out on bail and hence, there is no subjective satisfaction arrived by the second respondent while passing the detention order. Further, he submitted that the representation was sent on 12.11.2019 and the same was received on 15.11.2019. However, the representation was rejected only on 16.12.2019. Hence, there is a delay of 19 days. However, the learned Additional Public Prosecutor would support the detention order passed by the second respondent and seeks for dismissal of this petition.

5.The proforma given by the Under Secretary to Government reads as follows:

".....5.Representation dated	- 12.11.2019
6.Representation received dated	- 15.11.2019
7.Remarks called on	- 15.11.2019
8.Reminder dated	---
9.Remarks received on	- 26.11.2019
10.File Submitted on	- 26.11.2019
11.Under Secretary dealt with on	---
12.Deputy Secretary dealt with on	- 26.11.2019
13.Minister for Electricity, P & E with on-	14.12.2019
14.Rejected letter prepared on	- 16.12.2019
15.Rejection letter sent to the detenu on	- 17.12.2019

Govt. Holidays Falls on :
Rep - I: 16.11.2019, 17.11.2019, 23.11.2019,
24.11.2019, 30.11.2019, 01.12.2019, 07.12.2019, 08.12.2019,
14.12.2019, 15.12.2019."

From the above, it is seen that there was a delay of 19 days in considering the representation.

6.This Court is convinced only on the ground with regard to the delay in considering the representation. Therefore, delay in considering the representation vitiates the detention Order. Hence, this Petition is allowed as prayed for. Accordingly, the detention Order made in proceeding Memo C.No.14/G/IS/2019 dated 30.10.2019 is quashed and the detenu viz., Vicky @ Vignesh @ Vigneshwaran, S/o.Chidambaram, aged about 24 years detained at Central Prison, Coimbatore is set at liberty.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner of Police / Detaining authority,
Tiruppur City,
Tiruppur District.
- 3.The Superintendent Central Prison,
Coimbatore.
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort, St.George,
Chennai-600 009.
- 5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2564 of 2019

JP(CO)
CB(11/03/2020)