

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2020

CORAM

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

H.C.P.No.2561 of 2019

Lakshmi
W/o (late) Duraisamy

...Petitioner/Mother
of the Detenu

-vs-

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600 009.
2. The District Collector/ District Magistrate,
Erode District,
Erode.

...Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records relating to the petitioner's son 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 proceedings memo Cr.M.P.No.26/Goonda/2019/C1, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Senthilkumar @ Senthil S/o.(Late) Duraisamy, aged 43 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner .. Mr.W.Camyles Gandhi
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 Senthilkumar @ Senthil, male, aged 43 years, S/o.(Late) Duraisamy, who is the detenu. The detenu has been detained by the second respondent by his order in Cr.M.P.No.26/Goonda/2019/C1 dated 30.10.2019 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 29.08.2019, the detention order was passed only on 30.10.2019 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 29.08.2019, the order of detention came to be passed only on 30.10.2019 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.26/Goonda/2019/C1 dated 30.10.2019 passed by the second respondent is set aside. The detenu, namely, Senthilkumar @ Senthil, male, aged 43 years, S/o.(Late) Duraisamy 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

mmi/ms

To

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

2. The District Collector/ District Magistrate,
Erode District,
Erode.
3. The Superintendent,
Central Prison,
Coimbatore.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai - 9.
5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.2561 of 2019

VBA (CO)
KKV/17/07/2020



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