

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Ms. Justice P.T.ASHA

H.C.P. No.2650 of 2019

Prema

... Petitioner

-vs-

1.The Secretary to the Government,
Government of Tamil Nadu,
(Home) Prohibition and Excise Dept.,
Secretariat, Fort.St.George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 15.11.2019 in No.B.C.D.F.G.I.S.S.S.V.No.80/2019 passed against the petitioner's husband the detenu namely Babu son of Srinivasan aged about 33 years, who is confined at Central Prison, Puzhal, Chennai - 66 and set aside the same consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner .. Mr.A.Murugavel

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 Babu, male, aged 33 years, S/o.Srinivasan who is the detenu. The detenu has been detained by the second respondent by his order in

B.C.D.F.G.I.S.S.S.V.No.80/2019, dated 15.11.2019, holding him to be a "Bootlegger", as contemplated under Section 2(b) 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 surrendered on 19.09.2019, the detention order was passed only on 15.11.2019 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 surrendered on 19.09.2019, the order of detention came to be passed only on 15.11.2019 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 B.C.D.F.G.I.S.S.S.V.No.80/2019 dated 15.11.2019, passed by the second respondent is set aside. The detenu, namely, Babu, male, aged 33 years, S/o.Srinivasan is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO MDU)

//True Copy//

Sub Assistant Registrar

mmi/ms

To

1.The Secretary to the Government,
Government of Tamil Nadu,
(Home) Prohibition and Excise Dept.,
Secretariat, Fort.St.George,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.

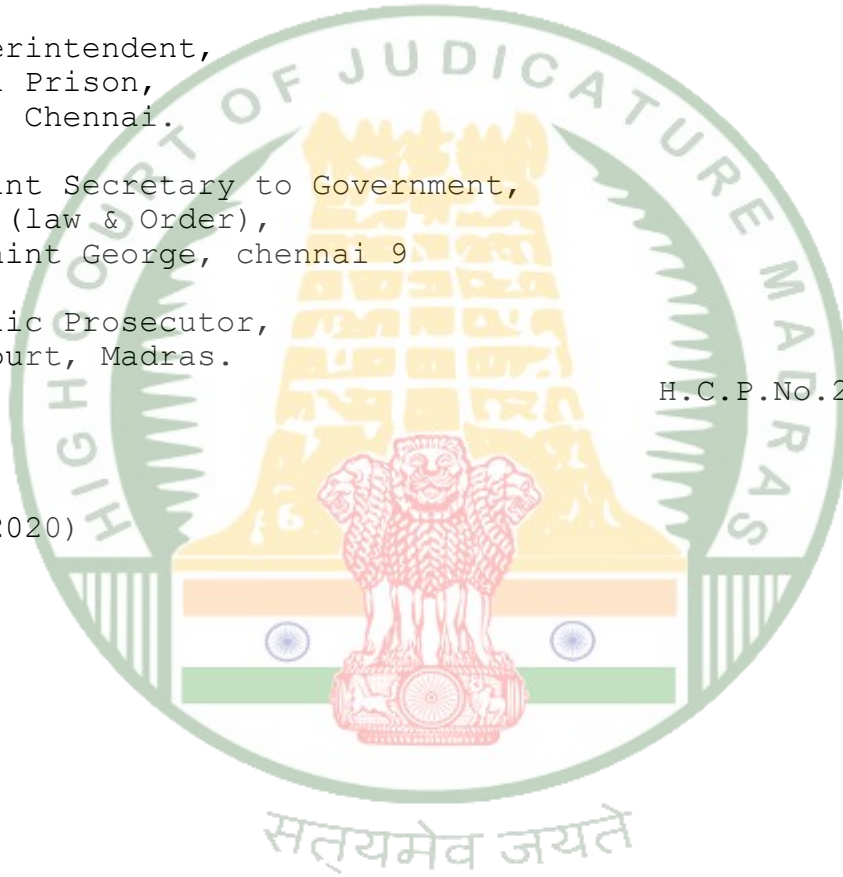
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2650 of 2019

AD(CO)
GN(26/06/2020)



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