

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

H.C.P. No. 2717 of 2019

Ponvnanan ... Petitioner/Brother of detenu

-vs-

- 1.The State of Tamil Nadu
rep. by its Secretary to Government,
Department of Home, Prohibition and Excise
Secretariat, Fort St. George, Chennai - 9.
- 2.The District Magistrate and District Collector,
Tiruvallur District,
Tiruvallur. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the records in Memo No.46/BCDFGISSSV/2019 passed by the second respondent on 07.11.2019, on the file of the second respondent and quash the same as illegal and consequently direct the respondent to produce my brother Malarvanan, Son of Kalaivanan aged about 21 years, before this Court, who now detained in Central Prison, Vellore and set him at liberty.

For Petitioner : Mr.A.Elumalai

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 brother of the detenu, Malarvanan, S/o. Kalaivanan, male, aged 21 years. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.46/2019 dated 07.11.2019, holding him to be a "Goonda", as contemplated under Section 2(f) 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 was arrested on 09.09.2019, the detention order was passed only on 07.11.2019 i.e., after a considerable delay of more than 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 09.09.2019, the order of detention came to be passed only on 07.11.2019 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 BCDFGISSSV No.46/2019 dated 07.11.2019, passed by the second respondent is set aside. The detenu, namely, Malarvanan, S/o.Kalaivanan, male, aged 21 years 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

raa/mmi/ssm

To

1. The Secretary to Government,
Department of Home, Prohibition and Excise
Secretariat, Fort St. George, Chennai - 9.
2. The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur.

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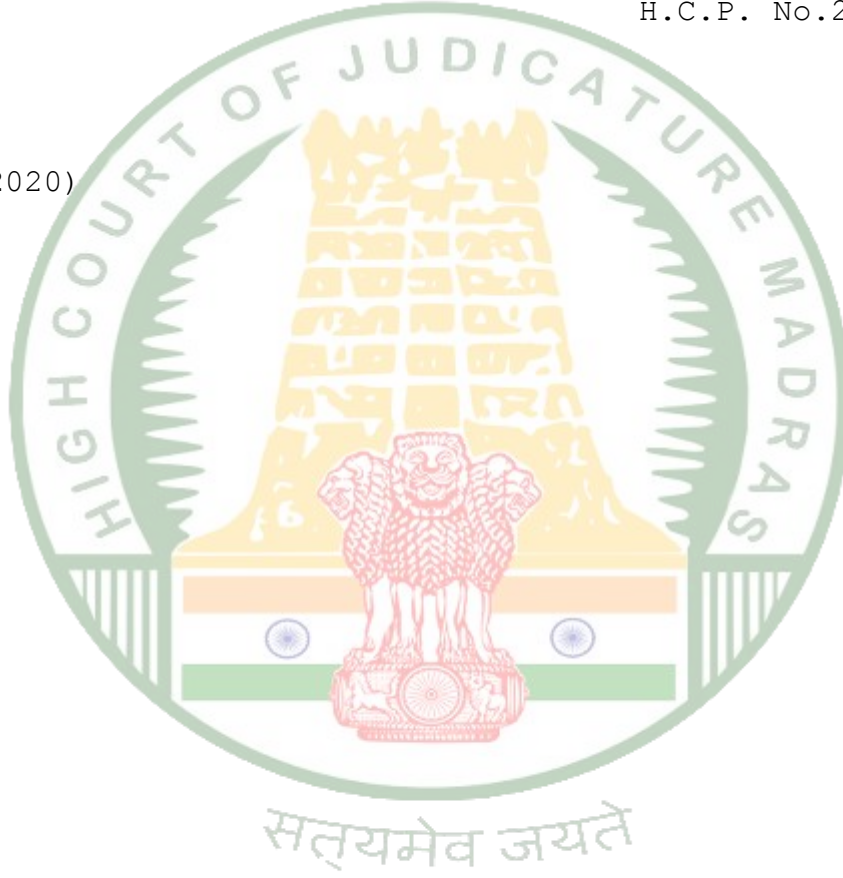
3.The Superintendent,
Central Prison, Vellore.

4.The Public Prosecutor,
High Court, Madras.

5.The Joint Secretary to Government,
Public (L & O),
Fort.ST.George,
Chennai.

H.C.P. No.2717 of 2019

SVI (CO)
GN (29/07/2020)



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