

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.2743 of 2019

Susila

... Petitioner

-VS-

1.State of Tamil Nadu rep. by
The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort.St.George, Chennai – 600 009.

2.Office of 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 pertaining to the order of detention passed in BCDFGISSSV No.65/2019 dated 10.10.2019 passed by the second respondent and set aside the same and direct the respondents to produce the petitioner's son by name Ram Kumar, son of Palani, aged about 23 years before this Court, now confined in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner .. Mr.K.Thenrajan
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 Ram Kumar, son of Palani, aged about 23 years who is the detenu. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.65/2019 dated 10.10.2019, holding him to be a "Drug Offender", as contemplated under Section 2(e) 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 27.08.2019, the detention order was passed only on 10.10.2019 i.e., after a considerable delay of more than 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 was arrested on 27.08.2019, the order of detention came to be passed only on 10.10.2019 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 BCDFGISSSV No.65/2019 dated 10.10.2019, passed by the second respondent is set aside. The detenu, namely, Ram Kumar, son of Palani, aged about 23 years is directed to be

released forthwith unless his detention is required in connection with any other case.

(M.M.S.,J.) (P.T.A.,J.)
27.05.2020

Index:Yes/No
mmi/ms

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Dept.,
Fort.St.George, Chennai – 600 009.
- 2.Office of the District Collector and District
Magistrate, Kancheepuram District,
Kancheepuram.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent,
Central Prison,
Puzhal, Chennai.

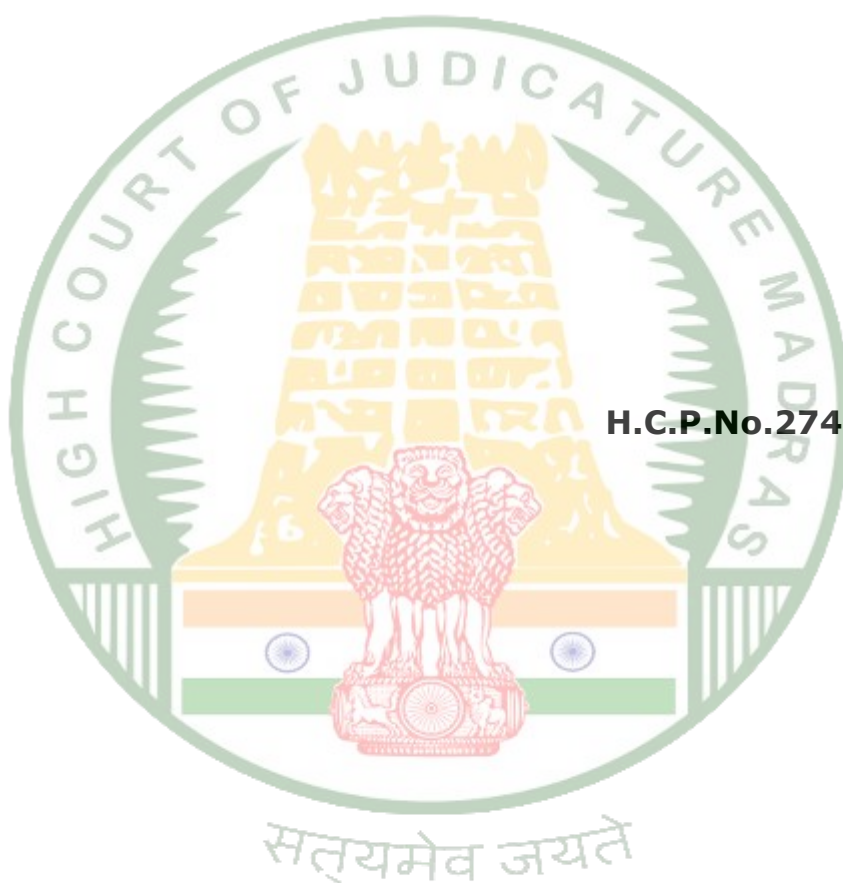


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HCP No 2743 of 2019

**M.M.SUNDRESH, J.
and
P.T.ASHA, J.**

(mmi/ms)



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