



WEB COPY

H.C.P.(MD) No.237 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.237 of 2020

Deva @ Deva Anandh

... Petitioner/Detenu

-vs-

1.The Secretary to Government

State of Tamil Nadu

Home (Prohibition and Excise) Department

Fort St.George, Chennai-600 009

2.The District Collector and District Magistrate

Office of the District Collector and District Magistrate

Kanniyakumari District at Nagercoil

3.The Superintendent of Prison

Palayamkottai Central Prison

Tirunelveli District

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records, connected with the detention order of the respondent No.2 in P.D.No.05/2020, dated 05.03.2020 and quash the same and direct the respondents to produce the body or person of the detenu by name Thiru.Deva @ Deva Anandh, son of Sivan, aged about 22 years, now detained as Goonda at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.K.Dinesh Babu

Additional Public Prosecutor

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the detenu, namely, Deva @ Deva Anandh, son of Sivan, aged about 22 years, against the detention order passed by the second respondent, in P.D.No.05/2020, dated 05.03.2020, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act, 14 of 1982.

2. Mr.R.Alagumani, learned counsel for the petitioner, would argue that even though the petitioner has raised several grounds, he has confined his arguments only to the delay in disposal of the petitioner's representation. It is submitted by the learned counsel



for the petitioner that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case and there is unexplained and inordinate delay in disposal of the petitioner's representation, which would vitiate the impugned order of detention.

WEB COPY

3. Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In this case, the Detention Order was passed on 05.03.2020. As against the same, the petitioner made a representation and the same was received by the Collectorate from the Central Prison on 24.04.2020. The Parawar remarks were called for from the Sponsoring Authority on the same day i.e.24.04.2020. The remarks were received on 30.04.2020 and the report was sent to the Government on 21.05.2020. In between 30.04.2020 and 21.05.2020, there is a delay of thirteen days, after excluding the Government Holidays of seven days, in receiving remarks from the Sponsoring Authority.

6. At this juncture, it is useful to refer the decision of the Honourable Apex Court in the case of ***Rajammal vs. State of Tamil Nadu and another***, reported in ***1999 (1) SCC 417***, wherein the Apex Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of nay indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner.

7. In the case on hand, as stated supra, the delay of thirteen days in considering the representation of the petitioner has not been properly explained by the respondents. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of delay by following the decision of the Honourable Apex Court referred supra.

8. In fine, the Habeas Corpus Petition is allowed. The detention order in P.D.No.05/2020, dated 05.03.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Deva @ Deva Anandh, son of Sivan, aged about 22 years, who is now detained at Palayamkottai Central Prison, is directed to be released



forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (Crl Side)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

krk

To:

- 1.The Secretary to Government,
State of Tamil Nadu,
Home (Prohibition and Excise) Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Kanniyakumari District at Nagercoil.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George, Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

H.C.P. (MD) No.237 of 2020
23.11.2020

pk (CO)

KK(08.12.2020) 3P 6C