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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.576 of 2020

Parvathy ... Petitioner/Mother of the detenu
-vs-

1.The State of Tamil Nadu,
represented by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Trichy City,
Trichy.

3.The Superintendent,
Central Prison,
Tiruchirappalli..

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the records relating to the Detention Order passed by the second respondent in his proceedings in C.No.14/Detention/C.P.O/T.C/2020, dated 22.6.2020 and to quash the same and to direct the respondents to produce the body of the person and the detenu namely Maniprakash, son of Elangovan, aged 22 years(now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar

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 mother of the detenu, namely, Maniprakash, son of Elangovan, aged 22 years, challenging the detention order in C.No.14/Detention/C.P.O/T.C/2020, dated 22.6.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2.It is submitted by Mr.N.Anandakumar, learned counsel appearing for the Petitioner that though several grounds have been raised to assail the detention order impugned in this Habeas Corpus



petition, the Petitioner is entitled to succeed on two grounds. Firstly, on the ground that there is inordinate and unexplained delay in considering the representation of the detenu and secondly, on the ground that no legible copies have been supplied to the detenu to enable him to make effective representation for revocation of the Detention Order. According to the learned counsel, the valuable rights of the detenu has been deprived on this account, which would vitiate the impugned order of detention.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing on behalf of the respondents while reiterating the counter filed by the second respondent, would argue that the Detention Order has been rightly passed by the second respondent taking note of the previous antecedents and the gravity of the offence involved in this case. According to the learned Additional Public Prosecutor, there is no illegality or irregularity warranting interference by this Court. It is further submitted that there is no delay in considering the representation of the detenu and it was considered by the detaining authorities within the reasonable time. 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.

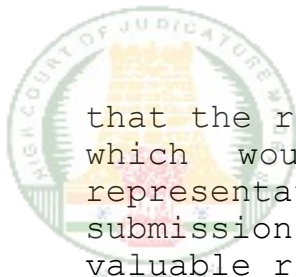
4. Heard both sides and perused the materials available on record.

5. In the instant case, the proforma furnished by the learned Additional Public Prosecutor would indicate that as against the impugned detention order, the petitioner made a representation to the first respondent on 06.08.2020 and it was received on 17.08.2020. Remarks were called for on 18.08.2020 and it was received on 26.08.2020. The Deputy Secretary dealt with the matter on 27.08.2020. The concerned Minister dealt with the matter on 03.09.2020 and the representation came to be rejected on 04.09.2020. It is seen that in between 27.08.2020 and 03.09.2020, there was a delay of 7 days, after excluding the Government Holidays of 2 days, there was a delay of 5 days in considering the petitioner's representation.

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.A perusal of the booklet at Page No.28 to 33 would show

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that the respondents supplied illegible copies of relevant documents which would prevent the detenu from making effective representation for revocation of detention. We find force in the submission of the learned counsel for the Petitioner that the valuable rights of the detenu has been deprived in this case.

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8. Moreover, as stated supra, the delay of 5 days in considering the representation of the petitioner remains unexplained by the respondents. Hence, in our considered view, the detention order is liable to be set aside on the grounds referred supra.

9. In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order in C.No.14/Detention/C.P.O/T/C/2020, dated 22.06.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Maniprakash, son of Elangovan, aged 22 years who is now detained at Central Prison, Tiruchirappalli is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)

vsn

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.

To:

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Joint Secretary,
Public(Law and Order) Department,
Fort St.George,
Chennai-9.

3.The Commissioner of Police,
Trichy City,
Trichy.

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4.The Superintendent,
Central Prison,
Tiruchirappalli..

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.576 of 2020
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pk (CO)

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