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H.C.P.(MD) No.917 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.917 of 2019

Vinithkumar @ Manoj

... Petitioner/Detenu

-vs-

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

2.The Commissioner of Police
Office of the Commissioner of Police
Madurai City, Madurai

3.The Superintendent of Prison
Palayamkottai Central Prison
Tirunelveli District

... 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 entire records connected with the detention order of the Respondent No.2 in No.56/BCDFGISSSV/2019, dated 21.08.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Vinithkumar @ Manoj, son of Chandran, aged about 24 years, now confining at Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan
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, Vinithkumar @ Manoj, son of Chandran, aged about 24 years, challenging the order of detention passed by the second respondent, vide proceedings No.56/BCDFGISSSV/2019, dated 21.08.2019, branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu



2. Mr.R.Alagumani, learned counsel for the petitioner would urge that though the petitioner has raised several grounds to assail the impugned order of detention, he would mainly concentrate on the ground of delay in disposal of the representation.

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3. It is the submission of the learned counsel for the petitioner that there is a violation of procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India and the representation of the petitioner was not disposed of by the respondents on time and there is unexplained and inordinate delay in considering the petitioner's representation. According to the learned counsel for the petitioner, on this sole ground, the impugned order of detention is liable to be set aside.

4. Further, the learned counsel for the petitioner would submit that the habeas corpus petitions filed by the co-accused in H.C.P.(MD) Nos.1086, 1091 & 1093 of 2019, have been allowed by this Court on the ground of delay.

5. It is the submission of the learned Additional Public Prosecutor that even though there is a delay of four days in the disposal of the petitioner's representation, it would not cause any prejudice to him and there is no violation of fundamental rights guaranteed under the Constitution of India.

6. We have heard the rival submissions and perused the materials available on record.

7. In this case, the order of detention was passed on 21.08.2019, against which, the petitioner made a representation to the first respondent on 05.09.2019 and it was received on 12.09.2019. Remarks were called for and received on 12.09.2019 and it was placed before the Under Secretary on 12.09.2019 and the file was sent to the Deputy Secretary on the same day i.e.12.09.2019. But, the concerned Minister had taken time till 19.09.2019 to consider the petitioner's representation and the same was rejected on 23.09.2019.

8. The dates referred supra would indicate that there was unexplained delay of four days, excluding the Government Holidays of two days, between 12.09.2019 and 19.09.2019. Hence, we are of the considered opinion that the impugned detention order is liable to be set aside on the ground of delay.

9. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in No.56/BCDFGISSSV/2019, dated 21.08.2019, is set aside. Consequently, the detenu, namely, Vinithkumar @ Manoj, son of



Chandran, aged about 24 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 / proceedings.

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Sd/-

Assistant Registrar (CS II)

// 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 / skn

To:

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 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.