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H.C.P(MD)No.968 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD)No.968 of 2019

Muthulakshmi

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department (IX),
Fort St. George,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Virudhunagar District,
Virudhunagar.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Habeas Corpus to call for the entire records, connected with the detention order of the respondent No.2 in Cr.M.P.No.11/2019, dated 16.07.2019 and quash the same and direct the respondents to produce the body or person of the detenu, by name Ranjithkumar, son of Marimuthu, aged about 28 years, now detained as "GOONDA" at Madurai 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

* * * * *

ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner is the wife of the detenu viz., Ranjithkumar, son of Marimuthu, aged about 28 years. The detenu has been detained by the second respondent/District Magistrate and District Collector,

<https://hcservices.ecourts.gov.in/hcservices/>



Virudhunagar District, by order dated 16.07.2019 branding him as "GOONDA", under Section 2(f) of the Tamil Nadu Act 14 of 1982, on the ground that the detenu came to notice in three adverse cases and one ground case.

2. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. In this case, the Detention Order was passed on 16.07.2019. As against the same, the petitioner made a representation on 17.09.2019. The remarks were called for by the Government from the Detaining Authority on 24.09.2019. The remarks were received on 12.11.2019. Thereafter, the Government considered the issue and passed the order rejecting the representation on 29.11.2019. It is the contention of the petitioner that there was delay of 37 days in considering the representation.

4. Now, the question is as to whether on that score, the impugned order can be quashed.

5. In *Rekha Vs. State of Tamil Nadu*, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the right to life and liberty of a person is, under Article 21 of the Constitution of India. The Hon'ble Supreme has further held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities of the detenu.

6. In *Tara Chand Vs. State of Rajasthan and others*, [1980 (2) SCC 321], the Hon' ble Supreme Court has held that any inordinate and unexplained on the part of the Government in considering the representation renders the detention illegal. This dictum has been followed in several Judgments consistently by the Hon'ble Supreme Court as well as this Court.

7. Applying the said dictum laid down by the Hon'ble Supreme Court, if we look into the facts of the present case, under Article 22(5) of the of India, Statute prescribes that any representation made to the concerned has to be disposed of within a reasonable time. In case, undoubtedly, there is an inordinate and unexplained delay of 14 days and therefore, the impugned detention order is liable to be .

8. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in Cr.M.P.No.11/2019, dated 16.07.2019. Consequently, the detenu, namely Ranjithkumar, son of Marimuthu, aged about 28 years, who is now detained at Central Prison, Madurai, 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 (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SML

To

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

Order made in
H.C.P(MD)No.968 of 2019
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VB (17.06.2020) 3P 6C