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H.C.P(MD)No.1109 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.05.2020

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

H.C.P (MD)No.1101 of 2019

Ramalaksmi ... Petitioner/Mother of detenu
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 Commissioner of Police,
Madurai City,
Madurai.

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 on the file of the 2nd respondent in 47/BCDFGISSSV/2019 and set aside the order of detention passed therein dated 30.07.2019, direct the respondents to produce the detenu by name Karthick @ Agori Karthick, male aged 23 years, S/o. Shanmugam, before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

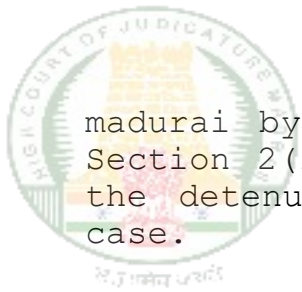
For Petitioner	:	Mr.J.William Christopher
For Respondents	:	Mr.R.Anandharaj
		Additional Public Prosecutor
		* * * * *

ORDER

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

The petitioner is the mother of the detenu viz., Karthick @ Agori Karthick, aged about 23 years. The detenu has been detained by the second respondent the Commissioner of Police, Madurai City,

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



madurai by order dated 30.07.2019 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 30.07.2019. As against the same, the petitioner made a representation on 02.10.2019. The remarks were called for by the Government from the Detaining Authority on 10.10.2019. The remarks were received on 10.10.2019. Thereafter, the Government considered the issue and passed the order rejecting the representation on 29.10.2019. It is the contention of the petitioner that there was delay of 18 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 quashed.

8. In the result, this Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in No.47, BCDFGISSSV/2019, dated 30.07.2019. Consequently, the detenu, namely Karthick @ Agori Karthick, son of Shanmugam, aged about 23 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his



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presence or custody or detention is required in connection with any other case/proceedings.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

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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 Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.
- 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.

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KK(10.07.2020) 3P 6C