

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

| Date of Reserving the Order | Date of Pronouncing the Order |
|-----------------------------|-------------------------------|
| 06.07.2020                  | 07.07.2020                    |

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI  
H.C.P.(MD) No.1129 of 2019

Subbulakshmi  
W/o.Uchimahali

... Petitioner/Mother of the Detenu  
-vs-

1.State of Tamil Nadu

Rep.by the Additional Chief Secretary to Government  
Home, Prohibition and Excise Department  
Fort. St.George, Chennai-600 009

2.The District Collector and District Magistrate  
Tirunelveli District, Tirunelveli

3.The Superintendent of Prison  
Central Prison  
Palayamkottai, Tirunelveli

... 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 passed in M.H.S.Confdl No.84/2019, dated 14.10.2019, on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son i.e., Sankar Ganesh, aged about 25 years, S/o.Uchimahali, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner: Mr.N.Pragalathan

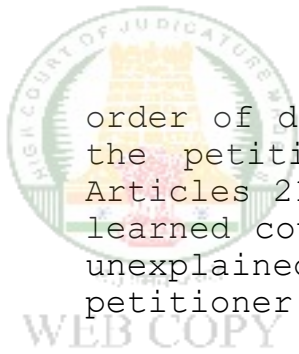
For Respondents : Mr.V.Neelakandan  
Additional Public Prosecutor

O R D E R

K.KALYANASUNDARAM, J.,

The petitioner is the mother of the detenu, namely, Sankar Ganesh, son of Uchimahali, aged about 25 years. The detenu has been detained, as per the order of the second respondent, dated 14.10.2019, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

<https://hcservices.ecourts.gov.in/hcservices/Prison> Through various grounds have been raised to assail the



order of detention, it is the submission of the learned counsel for the petitioner that the order has been passed in violation of Articles 21 and 22 of the Constitution of India. It is urged by the learned counsel for the petitioner that there was an inordinate and unexplained delay in disposal of the representation of the petitioner.

3. The learned Additional Public Prosecutor would argue that the delay has been explained in the counter affidavit filed by the respondents.

4. Heard the rival submissions and perused the records.

5. In the instant case, the detention order was passed on 14.10.2019. Against the order of detention, a representation dated 18.10.2019, was made by the petitioner. It was received by the Deputy Secretary on 08.11.2019. Thereafter, the file was pending with the Minister for Electricity, P & E, for consideration and the order rejecting the representation was passed on 27.11.2019. It is the contention of the petitioner that there was a delay of 13 days in considering the representation.

6. It is well settled that if the delay is not properly explained, the order of detention cannot stand to the scrutiny of the Court and in this case, in our considered opinion, the delay of 13 days has not been properly explained and therefore, the impugned order is liable to be quashed.

7. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in M.H.S.Confdl No.84/2019, dated 14.10.2019, is set aside. Consequently, the detenu, namely, Sankar Ganesh, son of Uchimahali, aged about 25 years, who is now detained at Central Prison, Palayamkottai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case / proceedings.

Sd/-

Assistant Registrar (Records)

// 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



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To:

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
State of Tamil Nadu,  
Fort. St.George,  
Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Tirunelveli District,  
Tirunelveli.
- 3.The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

H.C.P. (MD) No.1129 of 2019  
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