



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.09.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**

**and**

**THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**H.C.P. (MD) No.1159 of 2019**

WEB COPY

M.Mariammal

... Petitioner/Mother of the Detenu

-vs-

1.The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.

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

3.The Superintendent of Prison,  
Central Prison, Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records in pursuant to the proceedings of the second respondent in Detention Order in No.76/BCDFGISSSV/2019 dated 16.10.2019 quash the same and consequently, direct the respondents to produce the detenu, namely, Sekar S/o Mari, aged 27 years who is now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.M.Chandrabose

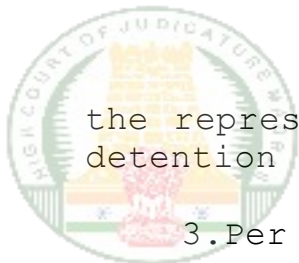
For Respondents : Mr.V.Neelakandan  
Additional Public Prosecutor

**O R D E R**

**[Order of the Court was made by K.KALYANASUNDARAM, J.]**

The Habeas Corpus Petition has been filed by the mother of the detenu, namely, Sekar S/o Mari, Male, aged about 27 years, who has been branded as "Goonda" by the second respondent in Detention Order in No.76/BCDFGISSSV/2019 dated 16.10.2019, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.Though several grounds have been raised challenging the impugned order of detention passed by the second respondent, dated 16.10.2019, Mr.M.Chandrabose learned counsel for the petitioner would contend that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India has been violated and there is an inordinate and unexplained delay in considering



the representation of the petitioner and on this sole ground, the detention order is liable to be set aside.

3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order. He would further state that the delay, if any, in considering the representation would not cause any prejudice to the detenu and there is no infirmity or irregularity in the order of detention passed by the second respondent. Hence, he prayed for dismissal of the Habeas Corpus Petition.

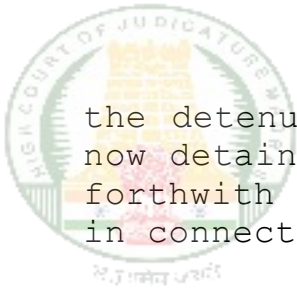
4.We have heard the rival submissions and perused the materials available on records.

5.In the instant case, it is not in dispute that the detenu was detained by the order of the second respondent dated 16.10.2019. Aggrieved over the same, a representation dated 29.10.2019 has been sent to the first respondent and on 01.11.2019, remarks were received. The Under Secretary and the Deputy Secretary dealt with the matter on 01.11.2019. The concerned Minister dealt with the matter on 27.11.2019 and thereafter, the detenu's representation was rejected on 29.11.2019. It is seen that there was delay of 26 days between 01.11.2019 and 27.11.2019. It is also seen that there are 7 Government holidays and after excluding the same, there is a delay of 19 days in considering the representation of the detenu.

6.In the case of **Rajammal vs. State of Tamil Nadu and another (1999 (1) SCC 417)** the Honourable Apex Court 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. In the case on hand, there is absolutely no explanation for the delay of 19 days in considering the representation of the detenu. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of delay by following the decision of the Honourable Apex Court referred supra.

8. In fine, the order of detention passed by the second respondent, in No.76/BCDFGISSSV/2019 dated 16.10.2019, is set aside and the Habeas Corpus Petition is allowed. Consequently,



the detenu, namely, Sekar, Son of Mari, Male aged about 27 years, 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.

WEB COPY

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

skn

**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,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,  
Madurai City, Madurai.
- 3.The Superintendent of Prison,  
Central Prison, Madurai.
- 4.The Joint Secretary to Government,  
Public(Law and Order)  
Fort.St.George, Chennai-600 009.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

**H.C.P. (MD) No.1159 of 2019**

**29.09.2020**

SRK(CO)

KM (08.10.2020) 3P 6C

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