



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.1197 of 2019

Chellammal

... Petitioner/Mother of the detenue

-VS-

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
State of Tamilnadu
Fort St.George
Chennai-600 009

2.Deputy Inspector General of Police
Tirunelveli Range and
Commissioner of Police
Tirunelveli City
(Full Additional Charge)

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.21/BCDFGISSSV/2019, dated 29.10.2019 and quash the same and direct the respondents to produce the detenu by name Raja Chinnadurai, son of Kombaiiah Thevar, aged about 19 years, now detained in Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents: Mr.V.Neelakandan
Additional Public Prosecutor



O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

The petitioner, who is the mother of the detenu, namely, Raja Chinnadurai, son of Kombaiah Thevar, aged about 19 years, has filed this habeas corpus petition assailing the order of detention passed by the second respondent, vide proceedings No.21/BCDFGISSSV/2019, dated 29.10.2019, branding her son / detenu as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2. Mr.R.Vinoth Bharathi, learned counsel for the petitioner would argue that though a number of grounds have been raised to challenge the impugned order of detention, he is mainly concentrating only on the ground of violation of procedural safeguards, which are guaranteed under Articles 21 and 22 of the Constitution of India.

3. It is the submission of the learned counsel for the petitioner that the representation of the petitioner was not considered on time and there is an inordinate and unexplained delay in the disposal of the petitioner's representation. According to the learned counsel for the petitioner, on this sole ground, the order of detention is liable to be set aside.

4. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor, would submit that no prejudice would be caused to the detenu on the ground of delay and the order of detention has been clamped on the petitioner on valid grounds and it need not be interfered with.

5. We have carefully considered the rival submissions and perused the materials available on record.

6. In the instant case, the detention order was passed on 29.10.2019. Against the same, the petitioner made a representation on 16.11.2019 to the Detaining Authority and it was received on 28.11.2019. Remarks were called for and it was received on 28.11.2019. The Deputy Secretary dealt with the representation on 29.11.2019. But, the concerned Minister had taken time till 14.12.2019 to consider the petitioner's representation and the same was rejected on 16.12.2019.

7. However, in the counter affidavit filed by the respondents, there is no explanation offered for the delay of ten days, excluding the Government Holidays of four days, between 29.11.2019 and 14.12.2019. This inordinate delay, in our considered opinion, would vitiate the order of detention.



8. In the result, the Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in No.21/BCDFGISSSV/2019, dated 29.10.2019. Consequently, the detenu, namely, Raja Chinnadurai, son of Kombaiah Thevar, aged about 19 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.

Sd/-

Assistant Registrar (AD-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.

To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamilnadu,
Fort St.George, Chennai-600 009.
- 2.The Deputy Inspector General of Police,
Tirunelveli Range and
Commissioner of Police,
Tirunelveli City,
(Full Additional Charge).
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Joint Secretary to Government,
Public (Law & Order),
Fort St.George,
Chennai-600 009.



5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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