



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.1366 of 2019

Mahalakshmi ... Petitioner / Wife of the detenue

-vs-

- 1.The State of Tamil Nadu
rep.by Principal Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai-9
- 2.The District Collector & District Magistrate
Theni District
Theni
- 3.The Superintendent of Prison
Central Prison, Madurai
- 4.The Inspector of Police
Andipatti Circle
Theni 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 records relating to the detention order passed by the second respondent in Detention Order No.15/2019, dated 05.12.2019 and to quash the same and direct the respondents to produce the body or person of the detenue, Seenipandi, son of Sangaiah, aged about 35 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner : Mr.S.Mahendrapathy

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor



O R D E R

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

Challenge in this habeas corpus petition is made to the detention order No.15/2019, dated 05.12.2019, passed by the second respondent, branding the detenu, who is the husband of the petitioner, as "Sand Offender" as contemplated under Section 2(gg) of the Tamil Nadu Act 14 of 1982.

2. Mr.S.Mahendrapathy, learned counsel for the petitioner, would argue that though the order of detention has been challenged on several grounds, however, the detention order is liable to be set aside on the sole ground of delay in disposal of the representation. He would further add that the respondents have not followed the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India.

3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor, would argue that the delay in considering the petitioner's representation would not cause any prejudice to the detenu and there is no violation of the rights guaranteed in the Constitution of India.

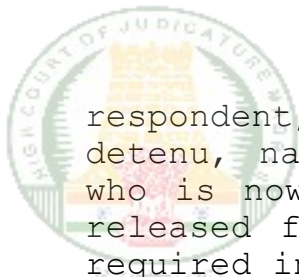
4. We have heard the rival submissions and perused the materials available on record.

5. In the case on hand, the order of detention was passed on 05.12.2019. Against the same, the petitioner made a representation to the first respondent on 17.12.2019 and it was recieved on 23.12.2019. Remarks were called for on the same date i.e.23.12.2019 and it was received on 14.01.2020. The file was submitted to the Deputy Secretary on 20.01.2020. The concerned Minister dealt with the matter on 22.01.2020 and rejected the petitioner's representation on 23.01.2020.

6. However, in the counter affidavit filed by the respondents, there is no proper explanation for the delay of fifteen days, excluding the Government Holidays of eight days, between 23.12.2019 and 14.01.2019.

7. 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 fifteen days has not been properly explained and therefore, the impugned detention order is liable to be quashed.

8. In the result, the Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second



respondent, in No.15/2019, dated 05.12.2019. Consequently, the detenu, namely, Seenipandi, son of Sangaiah, aged about 35 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.

Sd/-

Deputy Registrar (Accounts)

// 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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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