



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.1379 of 2019

WEB COPY

Kavitha ... Petitioner/Wife of Detenu
vs.

1.State of Tamil Nadu, Rep. by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Secretariat,
Fort St.George, Chennai - 600 009.

2.The District Magistrate and the District Collector,
Tiruchirappalli, Tiruchirappalli District.

3.The Superintendent, Central Prison,
Tiruchirappalli. ... Respondents

PRAYER: The Habeas Corpus Petition is 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 by the second respondent in Cr.M.P.No.85/2019, dated 17.12.2019 and quash the same as illegal and direct the respondents to produce the body and person of the petitioner's husband / detenu S.Sathiyarayanan, S/o. Subramanian, aged about 45 years resident of Salem Main Road, Gunaseelam, Musiri Taluk, Trichy District now detained as "Sand Offender" at Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.P.Ganapathi Subramanian
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

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

The wife of the detenu viz., S.Sathiyarayanan, S/o.Subramanian, aged about 45 years, has come up before this Court, challenging the detention order passed by the second respondent, dated 17.12.2019 in Cr.M.P.No.85/2019, wherein the detenu has been branded as a "Sand Offender".

2. Mr.P.Ganapathi Subramanian, learned counsel for the petitioner would state that though the detention order has been challenged on several grounds, he confines his argument with regard to the delay in disposal of the representation. It is the submission of the learned counsel for the petitioner that the
safeguards guaranteed under Article 22 of the Constitution of



India has been violated by the respondents in this case.

3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents, while reiterating the counter affidavit filed by the second respondent, would submit that the detention order came to be passed by the second respondent, considering the antecedents of the detenu and after satisfying with the materials placed by the sponsoring authority. It is further contended that the delay has caused no prejudice to the detenu, since he had already made an effective representation to the concerned authorities and prayed to dismiss the Habeas Corpus Petition.

4. The proforma filed by the learned Additional Public Prosecutor would indicate that aggrieved over the detention order dated 17.12.2019, a representation dated 25.12.2019 was made and it was received by the first respondent on 27.12.2019. Though remarks were called for on 30.12.2019 and a reminder was sent on 06.02.2020, the remarks were received by the first respondent only on 17.02.2020 and after consideration by the Under Secretary, Deputy Secretary and the Minister of Electricity and Prohibition and Exercise, it was rejected on 20.02.2020. It is seen that in between 30.12.2019 and 17.02.2020, there was a delay of 30 days and after excluding 18 Government Holidays, 30 days delay in considering the representation was not explained by the respondents either in the counter or during the argument of the learned Additional Public Prosecutor

5. For the forgoing reasons, we are of the considered opinion that the detention order impugned in this habeas corpus petition is liable to be quashed on the ground as stated supra.

6. In fine, the order of detention passed by the second respondent, in Cr.M.P.No.85/2019, dated 17.12.2019, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, S.Sathiyarayanan, S/o. Subramanian, aged about 45 years, now detained as "Sand Offender" at Central Prison, Trichirapalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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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 (XVI) Department,
Secretariat,
Fort St.George, Chennai - 600 009.
- 2.The District Magistrate and the District Collector,
Tiruchirappalli.
Tiruchirappalli District.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1379 of 2019
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