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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice R.PONGIAPPAN

H.C.P.No.87 of 2021

Nirmala

.. Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thiruvannamalai, Thiruvannamalai District.
- 3.The Superintendent of Police,
Thiruvannamalai.
- 4.The Superintendent of Prison,
Central Prison,
Vellore.
- 5.The Inspector of Police,
PEW Police station,
Polur,
Thiruvannamalai.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records in pursuant to the detention order issued by the 2nd respondent in D.O.No.134/2020-C2 dated 02.12.2020 and set aside the same and consequently direct the respondents to produce the detenu Velu, aged about 34 years, son of Krishnan, now confined at Central Prison, Vellore, before this Court and set him at liberty forthwith.



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For Petitioner : Mr.R.Karthikeyan

For Respondents : Mr.R.Muniyapparaj,
Govt.Advocate
(Crl.Side)

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

The petitioner is the wife of the detenu Velu, aged about 34 years, son of Krishnan. The detenu has been detained by the second respondent by his order in D.O.No.134/2020-C2 dated 02.12.2020, holding him to be a "Bootlegger", as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. The learned Government Advocate (Crl.Side) strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Government Advocate (Crl.Side), no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The Detention Order in question was passed on 02.12.2020. The petitioner made a representation dated nil. Thereafter, remarks were called for by the Government from the Detaining Authority on 11.01.2021. The remarks were duly



passed by the second respondent is set aside. The detenu, viz., Velu, aged about 34 years, son of Krishnan, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nsd

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thiruvannamalai, Thiruvannamalai District.
- 3.The Superintendent of Police,
Thiruvannamalai.
- 4.The Superintendent of Prison,
Central Prison,
Vellore.
- 5.The Inspector of Police,
PEW Police station,
Polur,
Thiruvannamalai.
- 6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
- 7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.87 of 2021

RSV (CO)
PR (20/07/2021)