



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS. JUSTICE R.N.MANJULA

H.C.P.NO.567 OF 2021

Usha
W/o.Gopi

..Petitioner/Wife of the detenue

Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The District Collector & District Magistrate,
Tirupathur District,
Tirupathur - 635 601.
3. The Superintendent of Police,
Tirupathur District,
Tirupathur - 1.
4. The Superintendent of Prison,
Central Prison, Vellore - 2.
5. The Inspector of Police,
Vaniyambadi PEW Police Station,
Tirupathur District.

..Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 30.03.2021 in C3/D.O.No.21/2021 against the petitioner's husband Gopi S/o.Pachaiyappan, aged 44 years, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel
For Respondents: Mr.R.Muniyapparaj
Government Advocate [crl.side]



ORDER

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

The petitioner is the wife of the detenu viz., Gopi S/o.Pachaiyappan, aged 44 years. The detenu has been detained by the second respondent by his order in C3/D.O.No.21/2021 dated 30.03.2021, 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. 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 30.03.2021. The petitioner made a representation on 19.04.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 04.05.2021. The remarks were duly received on 31.05.2021. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 26.07.2021.

6. It is the contention of the petitioner that there was a delay of 26 days in submitting the remarks by the Detaining Authority, of which 9 days were Government holidays and hence, there was a delay of 17 days in submitting the remarks by the Detaining Authority. It is the further contention of the petitioner that the remarks were received on 31.05.2021 and there was a delay of 1 day in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department after the Deputy Secretary dealt with it. Hence,



2. The District Collector & District Magistrate,
Tirupathur District,
Tirupathur - 635 601.
3. The Superintendent of Police,
Tirupathur District,
Tirupathur - 1.
4. The Superintendent of Prison,
Central Prison, Vellore - 2.
5. The Inspector of Police,
Vaniyambadi PEW Police Station,
Tirupathur District.
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.567 of 2021

SJ(CO)
KKV/24/08/2021