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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

H.C.P.No.813 of 2021

Sugumar

... Petitioner/Father of the Detenue

Vs.

1. State of Tamil Nadu
Rep. by its Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009
2. The District Magistrate & District Collector
Tiruvallur District
Tiruvallur
3. The Inspector of Police
Vellavedu Police Station
Tiruvallur District
4. The Superintendent of Prison
Central Prison - II
Puzhal, Chennai 600 066
5. The Superintendent of Police
Thiruvallur District
Thiruvallur

...Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS calling for the records relating to the detention order in Memo BCDFGISSSV No.43/2021 dated 08.04.2021 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Thiru. Vishwa @ Vimal , S/o Sugumar, aged about 21 years, the detenu herein, now confined in the Central Prison, Puzhal, Chennai, before this Court and him at liberty.



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For petitioner : Mr. R. Muthukumar

For respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

O R D E R

[Order of the Court was made by R.HEMALATHA, J.]

The petitioner is the father of the detenu viz., Vishwa @ Vimal, S/o Sugumar, aged about 21 years. The detenu has been detained by the 2nd respondent by his order dated 08.04.2021 in BCDFGISSSV No.43/2021, holding him to be a "Goonda", as contemplated under Section 2(f) 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 Additional Public Prosecutor 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 Additional Public Prosecutor 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 Additional Public Prosecutor, 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 08.04.2021. The petitioner made a representation on 08.05.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 11.05.2021. The remarks were duly received on 26.05.2021. Thereafter, the Government considered the matter and



passed by the 2nd respondent is set aside. The detenu viz., Vishwa @ Vimal, S/o Sugumar, aged about 21 years, 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

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To

1. The Secretary to Government
Home, Prohibition and Excise Department
Government of Tamil Nadu
Secretariat, Chennai-600 009
2. The Joint Secretary to Government
Public, Law and Order Department
Secretariat, Chennai-9
3. The District Magistrate & District Collector
Tiruvallur District
Tiruvallur
4. The Inspector of Police
Vellavedu Police Station
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5. The Superintendent of Prison
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Puzhal, Chennai 600 066
6. The Superintendent of Police
Thiruvallur District
Thiruvallur
7. The Public Prosecutor
High Court, Madras

H.C.P.No.813 of 2021

SR (CO)
K.RK. (16.11.2021)