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H.C.P.(MD) No.845 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD) No.845 of 2021

Priya

... Petitioner

-vs-

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai-600 009

2.The District Collector and District Magistrate
Perambalur District, Perambalur

3.The Superintendent
Trichy Central Prison, Trichy

... 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 entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.12/2021, dated 24.05.2021 and quash the same and direct the respondents to produce the petitioner husband's body and person by name Arivalagan, S/o.Natarajan, aged about 35 years, detained as a "Goonda" and lodged in Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.Venkatesan.R.

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

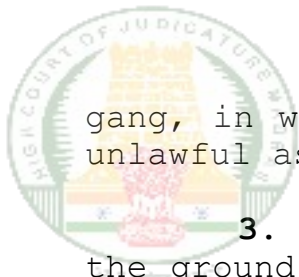
S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The wife of the detenu has moved this Court seeking issuance of writ of habeas corpus alleging that the preventive detention of her husband vide order dated 24.05.2021 bristles with infirmity and hence, liable to be quashed and he must be set at free.

2. The husband of the petitioner was arrested by Perambalur Police in Crime No.363 of 2021 for the offence under Sections 147, 148, 294(b), 324, 307 and 302 I.P.C., for the alleged occurrence took place on 25.03.2021, wherein one Sengottuvel was done to death and one Vignesh surveilled the attempt on his life committed by the



gang, in which the petitioner's husband Arivazhagan was part of the unlawful assembly.

3. The Detaining Authority, taking note of the gravity of the ground case as well as the other adverse cases against him, was satisfied that the detenu is a goonda and it is necessary to detain him preventively to avoid similar activities prejudicial to the maintenance of public order.

4. The present habeas corpus petition is filed on the ground that the conclusion of the Detaining Authority that there is a possibility of getting bail is not borne by any record and further, the ground case does not warrant detention, since it is not a case, which caused fear or disturbance in the minds of the general public. It is further contended in the petition that soon after the detention order passed on 24.05.2021, which was slapped on the detenu after nearly 60 days of his arrest in the ground case, representation was given to the Authorities to reconsider the detention order and the said representation, dated 07.06.2021, was not considered within the reasonable time. Therefore, on the sole ground, the detention order is liable to be quashed.

5. The learned Additional Public Prosecutor has given the proforma indicating the dates and the progress in considering the representation given on behalf of the detenu. It appears that on behalf of the detenu, seven representations were given between 07.06.2021 to 26.06.2021. However, the papers were placed before the concerned Minister, after collecting the remarks, only on 26.07.2021. Though there were holidays for 13 days in between, even then the delay of 25 days is left unexplained, which enures right to the detenu as per the pronouncement of this Court as well as the Honourable Supreme Court in various cases. Hence, the impugned detention order is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.12/2021, dated 24.05.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Arivazhagan, son of Natarajan, aged about 35 years, who is now detained at Trichy Central Prison, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

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.

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To:

- 1.The Additional Chief Secretary
to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Perambalur District,
Perambalur.
- 3.The Superintendent,
Trichy Central Prison,
Trichy.
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort saint George,
Chennai-600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.845 of 2021
09.12.2021

RD(29.12.2021) 3P 6C