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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM

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

H.C.P.NO.1085 OF 2021

Sowdha

... Petitioner

.Vs.

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Sections),
Vepery, Chennai - 600 007.
3. The Inspector of Police,
N-4, Fishing Harbour Police Station,
Chennai - 600 013.
4. The Superintendent of Jail,
Chennai Central Prison,
Puzhal, Chennai.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records relating to the detenu's detention under the Tamil Nadu Act 14 of 1982 order dated 16.06.2021 on the file of the second respondent herein made in proceedings in No.172/BCDFGISSSV/2021 and quash the same as illegal and consequently direct the respondents to produce the detenu Sridhar, S/o.Pushpalingam, aged 27 years, now detained in the Central Prison, Puzhal, Chennai, before this Court and set him at liberty from the detention.



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For Petitioner : Mr.R.Karunakaran
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by P.N.PRAKASH, J.]

The petitioner is the mother of the detenu Sridhar, S/o.Pushpalingam, aged 27 years. The detenu has been detained by the second respondent by his order in No.172/BCDFGISSSV/2021 dated 16.06.2021, 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 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 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 16.06.2021. The petitioner made a representation 08.07.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 12.07.2021. The remarks were duly



passed by the second respondent is set aside. The detenu, viz., Sridhar, S/o. Pushpalingam, aged 27 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(CO)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Sections),
Vepery, Chennai - 600 007.
3. The Inspector of Police,
N-4, Fishing Harbour Police Station,
Chennai - 600 013.
4. The Superintendent of Jail,
Chennai Central Prison,
Puzhal, Chennai.
5. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
6. The Public Prosecutor,
High Court, Madras.

H.C.P.NO.1085 OF 2021

KSM(CO)
PBS/12/01/2022