



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.493 of 2017

G.Murugammal

... Petitioner

-vs-

1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Saint George Fort,
Chennai - 600 009.

2.The Commissioner of Police,
Tirunelveli City.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli District.

4.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records pertaining to the order of detention passed by the 2nd respondent vide his proceedings in No.10/BCDFGISSSV/2017 dated 27.02.2017 and quash the same and consequently set the detenu by name Sudalai, S/o.Madasamy, (Male, aged 39 years), who is presently confined at Central Prison, Palayamkottai, Tirunelveli, at liberty.

For Petitioner : Mr.S.M.Anantha Murugan
For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor.

7. In *Rekha vs. State of Tamil Nadu*, reported in 2011 (5) SCC 244, the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

8. In *Sumaiya vs. The Secretary to Government*, reported in 2007 (2) MWN (Cr.) 145, a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In *Tara Chand vs. State of Rajasthan and others*, reported in 1980 (2) SCC 321, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 22 days in submitting the remarks by the Detaining Authority and 23 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.10/BCDFGISSSV/2017, dated 27.02.2017, passed by the second respondent is set aside. The detenu, namely, Sudalai, son of Madasamy, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Saint George Fort, Chennai - 600 009.
- 2.The Commissioner of Police, Tirunelveli City.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli District.
- 4.The Inspector of Police,
Palayamkottai Police Station, Tirunelveli City.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 6.The Joint Secretary to Government,
Public (Law and Order) Department,
Fort Saint George, Chennai-9