



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P(MD)No.1500 of 2016

Poovalingam @ Pavoo

... Petitioner

Vs.

1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to call for the entire records, connected with the detention order of the second respondent in No.75/BCDFGISSSV/2016 dated 28.10.2016 and quash the same and direct the respondents to produce the detenu, by name Poovalingam @ Pavoo, son of Ramachandran, aged about 26 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

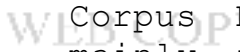
For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM,J.]

The petitioner is the detenu, aged about 26 years. He has been detained by the second respondent by his order in 75/BCDFGISSSV/2016 dated 28.10.2016, 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.



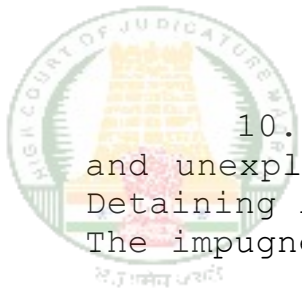
4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been 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.

6. It is the contention of the petitioner that there was a delay of 5 days in submitting the remarks by the Detaining Authority and thereafter, there was again a delay of 24 days in considering the representation.

7. In **Rekha Vs. State of Tamil Nadu, [2011 (5) SCC 244]**, the Hon'ble 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**, [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**, [1980 (2) SCC 321], the Hon'ble 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 5 days in submitting the remarks by the Detaining Authority and 24 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Detention Order, passed by the second respondent, in his proceedings in No.75/BCDFGISSSV/2016 dated 28.10.2016, is quashed. The detenu, namely, Poovalingam @ Pavoo, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

12. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort.St.George, Secretariat,
Chennai - 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Joint Secretary to Government of Tamil Nadu,
Public (Law & order),
Fort Saint George,
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Akv

AE/JC/SAR4/26.04.2017/3P/6C

H.C.P (MD) No.1500 of 2016
12.04.2017