



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM

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

H.C.P.NO.306 OF 2021

Murugan
S/o.Govindasamy

...Petitioner

Vs.

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Chengalpattu District,
Chengalpattu.
- 3.The Superintendent of Police,
Chengalpattu District,
Chengalpattu.
- 4.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai - 66.
- 5.The Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 07.02.2021 in BCDFGISSSV No.06/2021 against the petitioner's friend Barani @ Baranitharan S/o.Maduraiveeran, aged 40 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	:	Mr.S.Senthilval
For Respondents	:	Mr.R.Muniyapparaj
		Government Advocate [crl.side]



Department after the Deputy Secretary dealt with it, of which 6 days were Government holidays. Hence, there was inordinate delay of 21 days in considering the representation.

7. In *Rekha vs. State of Tamil Nadu* (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* (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 7 days in submitting the remarks by the Detaining Authority and unexplained delay of 14 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDGFISSSV No.06/2021 dated 07.02.2021 passed by the second respondent is set aside. The detenu, viz., Barani @ Baranitharan S/o.Maduraiveeran, aged 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

gm

To

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



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

3.The Superintendent of Police,
Chengalpattu District,
Chengalpattu.

4.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai - 66.

5.The Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

7.The Public Prosecutor,
High Court, Madras.

H.C.P.No.306 of 2021

JPL(CO)
RVM(31/08/2021)