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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM

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

H.C.P.No.472 of 2021

Syed Banu

..Petitioner

Vs.

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

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

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

4. The Superintendent of Police,
Vellore District, Vellore.

5. The Inspector of Police,
Pernambut Police Station,
Vellore District.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining tot he order of detention passed in C3/D.O.No.25/2021 dated 12.03.2021 passed by the 2nd respondent and to set aside the same as illegal and directing the respondents to produce the petitioner's son Imran, aged about 38 years, S/o.Abdhul Ajes, before this Court and set him at liberty, now confined in the Central Prison, Vellore.

For Petitioner : Mr.K.Thenrajan

For Respondents : Mr.R.Muniyapparaj,
Addl. Public Prosecutor



ORDER

[Order of the Court was made by R.N.MANJULA, J.]

The petitioner is the wife of the detenu Imran, aged about 38 years, son of Abdhul Ajes. The detenu has been detained by the second respondent by his order in C3/D.O.No.25/2021 dated 12.03.2021, 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.

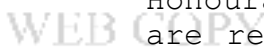
2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

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 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.

5. The Detention Order in question was passed on 12.03.2021. The petitioner made a representation 15.03.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 18.03.2021. The remarks were duly received on 30.03.2021. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 15.04.2021.

6. It is the contention of the petitioner that there was a delay of 12 days in submitting the remarks by the Detaining Authority, of which, 4 days were Government Holidays and hence there was an inordinate delay of 8 days in submitting the remarks. It is the further contention of the petitioner that the remarks were received on 30.03.2021 and there was a delay of 13 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which 5 days were Government



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.

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.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C3/D.O.No.25/2021 dated 12.03.2021, passed by the second respondent is set aside. The detenu, viz., Imran, aged about 38 years, son of Abdhul Ajes, is directed to be released forthwith unless his detention is required in connection with any other case.

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nsd

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



2. The District Collector and District Magistrate,
Vellore District.
3. The Superintendent of Prison,
Central Prison, Vellore District.
4. The Superintendent of Police,
Vellore District, Vellore.
5. The Inspector of Police,
Pernambut Police Station,
Vellore 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.472 of 2021

RGN(CO)
RGA(05/10/2021)