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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS. JUSTICE S.SRIMATHY

H.C.P.No.666 of 2021

Riyaj Masoodha
W/o.Jain Alavudeen

.. Petitioner

Vs.

1.State of Tamil Nadu
represented by its
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police,
Vepery, Chennai - 600 007.

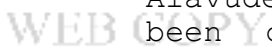
3.The Superintendent,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
Team 29, Central Crime Branch,
Chennai.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus seeking quash of the detention order in No.47/BCDFGISSSV/2021 dated 13.02.2021 passed by the second respondent against the detenu Jain Alavudeen s/o.Rasheed Ali, aged about 40 years, under Act 14 of 1982, who is now detained as Cyber Law Offender in Central Prison, Puzhal II, Chennai and to produce the body of the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Suseela Devi
For Respondents: Mr.R.Muniyapparaj
Additional Public Prosecutor



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

6. It is the contention of the petitioner that there was a delay of 2 days in submitting the remarks by the Detaining Authority. It is the further contention of the petitioner that the remarks were received on 26.03.2021 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 holidays. Hence, there was inordinate delay of 10 days in considering the representation.



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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 2 days in submitting the remarks by the Detaining Authority and unexplained delay of 8 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 No.47/BCDFGISSSV/2021 dated 13.02.2021 passed by the second respondent is set aside. The detenu, viz., Jain Alavudeen s/o.Rasheed Ali, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gm

To

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

2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police,
Vepery, Chennai - 600 007.



3.The Superintendent,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
Team 29, Central Crime Branch,
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.

+1 cc to Mr.S.Siva kumar, Advocate Sr.NO. 56027

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VSN II (CO)
A.SK(10.11.2021)