



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mrs. Justice R.HEMALATHA

H.C.P.No.793 of 2021

Palaniammal .. Petitioner/Wife of the detenu

Vs.

- 1.State of Tamil Nadu represented by
The Secretary of Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.
- 2.The District Magistrate and District Collector,
Salem District.
- 3.The Superintendent of Police,
Salem, Salem District.
- 4.The Superintendent,
Central Prison,
Salem - 636 007.
- 5.The Inspector of Police,
Theevattipatty Police Station,
Salem District.
(Crime No.167/2021)

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's husband, the detenu Murugesan, aged 47 years, son of Perumal, presently detained in the Central Prison, Salem, under Act 14/1982, as 'Sexual Offender' vide the detention order dated 25.03.2021 in C.M.P.No.13/SEXUAL OFFENDER/C2/2021, on the file of the 2nd respondent herein, directing to produce the person or body of the detenu Murugesan, aged 47 years, son of Perumal, before this



Court and thereafter, set him at liberty from the Central Prison, Salem, by setting the above order.

For Petitioner : Mr.B.Vasudevan

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

ORDER
[Made by P.N.PRAKASH, J.]

The petitioner is the wife of the detenu Murugesan, aged 47 years, son of Perumal. The detenu has been detained by the second respondent by his order in C.M.P.No.13/SEXUAL OFFENDER/C2/2021, dated 25.03.2021, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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 25.03.2021. The petitioner made a representation on 17.04.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 04.05.2021. The remarks were duly



In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.13/SEXUAL OFFENDER/C2/2021 dated 25.03.2021, passed by the second respondent is set aside. The detenu, viz., Murugesan, aged 47 years, son of Perumal, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nsd
To

- 1.The Secretary of Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.
- 2.The District Magistrate and District Collector,
Salem District.
- 3.The Superintendent of Police,
Salem, Salem District.
- 4.The Superintendent,
Central Prison,
Salem - 636 007.
- 5.The Inspector of Police,
Theevattipatty Police Station,
Salem 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.793 of 2021

SR II (CO)
A.SK(30.11.2021)