



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.362 of 2021

Palpandi alias Aruva Pandi

... Petitioner

-vs-

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

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.

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

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the respondent No.2 in Cr.M.P.No.02 of 2021 dated 12.02.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Palpandi alias Aruva Pandi son of Rajendran, aged about 27 years, now detained at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

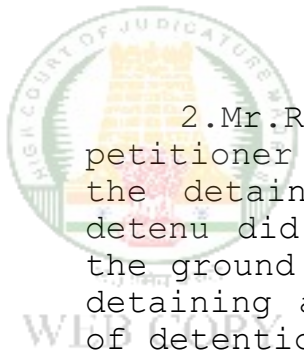
For Respondents : Mr.S.Ravi

Standing counsel for Government

O R D E R

(Order of the Court was made by J.NISHA BANU, J.)

This habeas corpus petition has been filed by the detenu, namely, Palpandi alias Aruva Pandi, S/o.Rajendran, aged about 27 years, challenging the detention order in Cr.M.P.No.02 of 2021, dated 12.02.2021, passed by the second respondent, branding him as "Drug Offender" as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.



2.Mr.R. Alagumani, the learned counsel appearing for the petitioner would submit that non-application of mind on the part of the detaining authority in passing the detention order, as the detenu did not file any attempted to file any bail application in the ground case at the time of passing the detention order, but the detaining authority mentioned in paragraph number 5 of the grounds of detention as "that he (Palpandi alias Aruva Pandi) is very likely to be released on bail in the ground case". The detaining authority failed to place all documents, grounds of detention and booklet before the 1st respondent immediately after passing the detention order. The delay would vitiate the detention order. The 2nd respondent failed to place any cogent material in regard to his inference about the possibility of detenu coming out on bail either in the detention order or in the booklet. Some of the pages are in English and the translated copy of the same were not furnished. The arrest was not properly intimated to the relatives or friends of the detenu. The booklets are illegible and therefore, the detenu cannot understand the said pages and prefer effective representation. There is an inordinate delay in considering the petitioner's representation.

3.Even though the petitioner has raised the above grounds to quash the impugned detention order, the learned counsel for the petitioner would mainly place arguments on the ground of delay in disposal of the petitioner's representation. In this regard, the learned counsel for the petitioner would state that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case and there is unexplained and inordinate delay in disposal of the petitioner's representation which would vitiate the impugned order of detention. Thus, he would pray to quash the impugned order of detention.

4.The learned Standing Counsel appearing for the respondents would state that after satisfying with the materials placed by the sponsoring authority, the detaining authority has passed the impugned detention order and therefore, there is no infirmity or illegality in the same. He would produce the proforma regarding the disposal of the petitioner's representation and would state that even if there is any delay in disposal of the petitioner's representation, it has not caused any prejudice to the rights of the detenu. Thus, he would pray for dismissal of this petition.

5.Heard the learned counsel for the petitioner as well as the respondents.

6.Perusal of the proforma produced by the learned Standing Counsel appearing for the respondents would show that as against the impugned detention order, the petitioner has made a representation to the 1st respondent on 24.02.2021 which was received on 05.03.2021. Remarks on the said representation were called for on 05.03.2021 and on 28.04.2021. The Under Secretary concerned has



dealt with the representation on 29.04.2021 and the Hon'ble Minister concerned has dealt with the representation on 30.04.2021 and finally, the representation came to be rejected on 04.05.2021. It is seen that in between 05.03.2021 and 28.04.2021, there was a delay of 53 days and after excluding 17 Government Holidays, there was a delay of 36 days in considering the petitioner's consideration.

7. At this juncture, it is useful to refer to the decision of the Hon'ble Supreme Court in the case of **Rajammal vs. State of Tamil Nadu and another** reported in **1999 (1) CC 417**, wherein, the Apex Court has held that it is for the authority concerned to explain the delay, if any, in disposal of the representation of the detenu and if any delay was caused on account of any indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner.

8. In the case on hand, as stated supra, the delay of **36** days in considering the representation of the petitioner remains unexplained by the respondents. Hence, in our considered view, the impugned detention order is liable to be set aside solely on the ground of delay by following the above decision of the Apex Court.

9. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.02 of 2021, dated 12.02.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Palpandi alias Aruva Pandi, S/o.Rajendran, aged about 27 years, who is now detained at Trichy Central Prison, Trichy, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

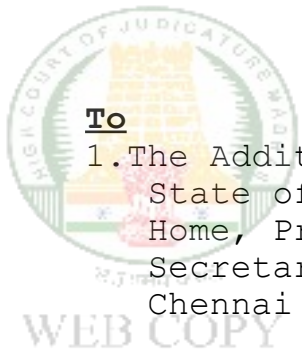
Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The Joint Secretary to Government of Tamilnadu,
Public (Law & Order),
Fort Saint George,
Chennai-9.
- 3.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.362 of 2021

DATED : 25.08.2021

RS (06.09.2021) 4P 6C