



passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

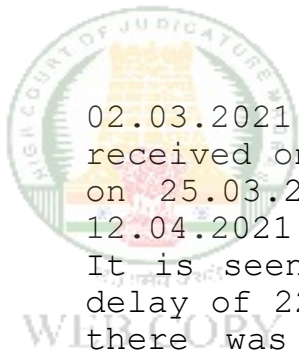
2.The learned counsel for the petitioner would state that the similar case relied on by the detaining authority was registered for the offence under Section 392 I.P.C, whereas the offences involved in the ground case are under Sections 294(b), 450, 392 and 506(ii) I.P.C and there is no imminent or real possibility of coming out on bail by the detenu, whereas, stating that there is a real possibility of coming out on bail by the detenu, the impugned detention order has been passed which reflects non-application of mind on the part of the detaining authority. It is further submitted that several pages in the typed set of grounds furnished to the detenu, the copies are not legible and readable and the documents in the booklet are not properly translated from English version to Tamil version, which caused serious prejudice to the detenu from making effective representation to the higher authorities and there is no cogent materials to arrive at the subjective satisfaction and there is also no material to show that the activities of the detenu is prejudicial to the maintenance of public law and order to brand him as goonda and further, there is a delay in considering the representation.

3.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.

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

5.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.

6.Perusal of the proforma furnished by the learned Standing Counsel appearing for the respondents would show that as against the impugned detention order, the petitioner made a representation to the first respondent dated 00.02.2021 and it was received on



02.03.2021. Remarks were called for on 02.03.2021 and it was received on 25.03.2021. The Deputy Secretary dealt with the matter on 25.03.2021. The concerned Minister dealt with the matter on 12.04.2021 and the representation came to be rejected on 15.04.2021. It is seen that in between 02.03.2021 and 25.03.2021, there was a delay of 22 days, after excluding the Government Holidays of 7 days, there was a delay of 15 days in the I part and in between 25.03.2021 and 12.04.2021, there was a delay of 17 days, after excluding the Government Holidays of 9 days, there was a delay of 8 days in the II Part and totally there was a delay of 23 days in considering the petitioner's representation.

7. At this juncture, it is useful to refer the decision of the Honourable Apex Court in the case of **Rajammal vs. State of Tamil Nadu and another**, reported in **1999 (1) SCC 417**, wherein, the Apex Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of nay 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 23 days in considering the representation of the petitioner remains unexplained by the respondents. Hence, in our considered view, the 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 P.D.No.03/2021 dated 18.02.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Edwin Jose, S/o.Late Nesamani, aged about 30 years, who is now detained at Central Prison, Palayamkottai, Tirunelveli, 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)

pm

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 State of Tamilnadu
represented by its Secretary to Government,
Home (Prohibition and Excise) Department,
Fort.St. George, Secretariat,
Chennai-600 009.
2. The District Collector and District Magistrate,
Kanyakumari District,
Nagercoil.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
4. Joint Secretary to Government,
Public Law and Order
Fort st. George
Chennai 9
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-28588[F] dated
08/09/2021)

H.C.P. (MD) No.383 of 2021
08.09.2021

_RD(24.09.2021) 4P 7C