



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.464 of 2021

WEB COPY

Shanthi

... Petitioner / Wife of Detenue

-vs-

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

2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... 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 records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in C.No.12/Detention/C.P.O/T.C/2021 dated 12.03.2021 in detaining the detenue under Section 2(g) of the Tamilnadu Act 14 of 1982 as a Immoral Traffic offender and quash the same and direct the respondents to produce the Detenue namely Rajendran @ Rajesh S/o.Palanisamy, Male, aged about 55 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.A.Thiruvadi Kumar,
Standing Counsel for the State

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, Rajendran @ Rajesh S/o.Palanisamy, aged about 55 years, challenging the detention order in C.No.12/Detention/C.P.O/T.C/2021 dated 12.03.2021 passed by the second respondent, ~~standing in as~~ "Goonda", as contemplated under Section 2(f) of



the Tamil Nadu Act 14 of 1982.

2.The learned counsel for the petitioner would state that the arrest was not properly intimated to the relatives or friends of the detenu. 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. The detaining authority relied and referred the documents in the remand extension order and Tamil translation copy of Government Order, but the same have not been supplied or furnished to the detenu and 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 18.03.2021, which was received on 23.03.2021. Remarks on the said representation were called for on 23.03.2021 and it was received on 30.03.2021. The Deputy Secretary concerned has dealt with the representation on 30.03.2021 and the Hon'ble Minister concerned has dealt with the representation on 12.04.2021 and finally, the representation came to be rejected on 15.04.2021. It is seen that in between 30.03.2021 and 12.04.2021, there is a delay of 13 days. After



excluding the Government holidays of 5 days, there is a delay of 8 days in considering the petitioner's representation.

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 8 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 C.No.12/Detention/C.P.O/T.C/2021 dated 12.03.2021 passed by the second respondent, is set aside. Consequently, the detenu, namely, Rajendran @ Rajesh S/o.Palanisamy, aged about 55 years, who is now detained at Central Prison, Tiruchirappalli, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mpk

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 Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,

Chennai-600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Joint Secretary to Government,
Public(Law & Order),
Government of TamilNadu,
Fort St.George, Chennai-9

H.C.P. (MD) No.464 of 2021
15.09.2021

NSN(CO)
SB(29.09.2021) 4P 6C