



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.08.2011

CORAM:

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

H.C.P. (MD) No.515 of 2021

M.Subramanian ... Petitioner/Father of the Detenu

-vs-

- 1.The Additional Chief Secretary of Government,
Home Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 9.
- 2.The District Collector and District Magistrate,
District Collectors Office Thanjavur,
Thanjavur District.
- 3.The Superintendant of Prison,
Central Prison, Trichy.
- 4.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District. ... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the records in pursuant to the proceedings of the second respondent in Detention Order in P.D.No.83/2020, dated 02.12.2020 quash the same and consequently direct the respondents to produce the detenue, namely Sathish @ Sathiskumar, S/o.M.Subramaniyan, aged 34 years who is now detained in Central Prison, Trichy, Trichy District before this Court and set him at liberty.

For Petitioner : Mr.R.Maheswaran
For Respondents: Mr.S.Ravi
Standing counsel for the State



O R D E R

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

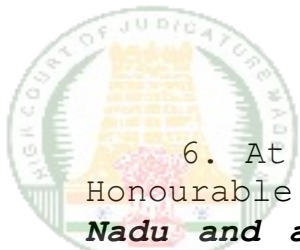
This habeas corpus petition has been filed by the father of the detenu, namely, Sathish @ Sathishkumar, S/o.Subramaniyan, aged about 34 years, against the detention order passed by the second respondent, in P.D.No.83/2020, dated 02.12.2020, branding him as 'Drug Offender' as contemplated under Section 2(e) of Tamil Nadu Act, 14 of 1982.

2. Mr.R.Maheswaran, learned counsel appearing for the petitioner, would argue that the relevant papers relating to the detention order were not served on the detenu in accordance with Section 8(1) of the Act 14 of 1982. According to the learned counsel for the petitioner, the detenu was arrested on 08.10.2018 and remanded to judicial custody. But, the remand order and the remand extension order were not supplied to the detenu. Even though the learned counsel for the petitioner has raised several grounds, he has confined his arguments only to the delay in disposal of the petitioner's representation. It is submitted by the learned counsel for the petitioner 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.

3. Mr.S.Ravi, learned Standing counsel appearing for the respondents, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. In the instant case, the proforma furnished by the learned Standing counsel would indicate that as against the impugned detention order, the petitioner made a representation to the first respondent on 24.12.2020 and it was received on 30.12.2020. Remarks were called for on the same day i.e., on 30.12.2020 and it was received on 25.01.2021. The Deputy Secretary dealt with the matter on 25.01.2021. The concerned Minister dealt with the matter on 04.02.2021 and the representation came to be rejected on 04.02.2021. It is seen that in between 30.12.2020 and 25.01.2021, there was a delay of 14 days, after excluding the Government Holidays of 11 days, in considering the petitioner's representation.



6. 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.

7. In the case on hand, as stated supra, the delay of 14 days in considering the representation of the petitioner has not been properly explained 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 decision of the Honourable Apex Court referred supra.

8. In fine, the Habeas Corpus Petition is allowed. The detention order made in P.D.No.83/2020, dated 02.12.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Sathish @ Sathishkumar, S/o.M.Subramaniyan, aged about 34 years, who is now detained at Central Prison, Trichy, Trichy District, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

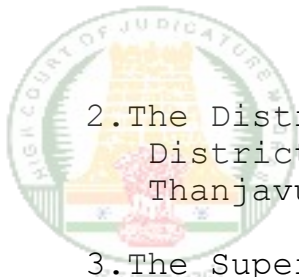
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Note :

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 of Government,
Home Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 9.



2.The District Collector Cum District Magistrate,
District Collectors Office Thanjavur,
Thanjavur District.

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

4.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

5.The Joint Secretary to Government,
Public(Law & order),
Fort St. George,
Chennai - 9.

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

+1 CC to MR.R.MAHESWARAN, Advocate (SR-26109[F] dated 12/08/2021)

H.C.P. (MD) No.515 of 2021

12.08.2021

MGJ(03.09.2021) 4P 8C