



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.682 of 2021

Indragandhi

... Petitioner/mother of the detenu

-vs-

1. The State of Tamilnadu,
Represented by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.
 2. The District Collector and District Magistrate,
Pudukkottai District,
Pudukkottai.
 3. The Inspector of Police,
Annavaasal Police Station,
Pudukkottai District.
 4. The Superintendent of Prison,
Central Prison, Trichy,
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 records relating to the Detention Order passed by the second respondent in Detention Order No.P.D.O.No.14/2021 dated 17.03.2021 and quash the same and direct the respondents to produce the detenu namely Karuppan @ Karuppaiya aged about 21 years, S/o. Shanmugam, before this Hon'ble Court and set him at liberty, now detained at Central Prison, Trichy.

For Petitioner : Mr.S.Sundarapandian

For Respondents : Mr.A.Thiruvadikumar
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 mother of the detenu, namely Karuppan @ Karuppaiya, S/o. Shanmugam, aged about 21 years, challenging the detention order in No.P.D.O.No.14/2021 dated 17.03.2021, 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 arrest of the detenu was intimated through SMS to one Selvaraj, who is the relative of the detenu, which is not a valid one. He would further state that several pages in the typed set of grounds furnished to the detenu, the copies are not legible and readable which caused serious prejudice to the detenu from making effective representation to the higher authorities and further, there is a delay in considering the petitioner's 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. Thus, he would pray for dismissal of this petition.

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 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 23.04.2021 which was received on 26.04.2021. Remarks on the said representation were called for on 26.04.2021 and it was received on 17.05.2021. The Deputy Secretary concerned has dealt with the representation on 17.05.2021 and the Hon'ble Minister concerned has dealt with the representation on 20.05.2021 and



finally, the representation came to be rejected on 07.06.2021. It is seen that in between 26.04.2021 and 17.05.2021, there is a delay of 20 days. After excluding the government holidays of 7 days, there is a delay of 13 days in considering the petitioner's representation.

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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 13 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 No.P.D.O.No.14/2021 dated 17.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Karuppan @ Karuppaiya, S/o. Shanmugam, aged about 21 years, who is now detained at 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 (W)

// 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 Additional Chief Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.

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



2. The District Collector and District Magistrate,
Pudukkottai District,
Pudukkottai.

3. The Inspector of Police,
Annavaasal Police Station,
Pudukkottai District.

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

5. The Joint Secretary to Government,
Public (Law & Order),
Fort saint George, Chennai-600 009.

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

H.C.P.(MD) No.682 of 2021

DATED : 15.09.2021

_RD(18.10.2021) 4P 7C