



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD) No.727 of 2021

WEB COPY

Rajasekaran

.. Petitioner /

Brother of the Detenu

Vs.

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise (xiv) Department,
Fort St. George, Chennai-600009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Tenkasi District,
Tenkasi.
 - 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- ... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the respondent No.2 in M.H.S.Confdl.No.26/2021 dated 29.04.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name, Suresh, son of Subaramaniyanadar, aged about 43 years, now detained as "Goonda" at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

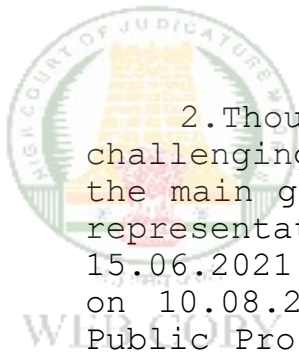
O R D E R

S.VAIDYANATHAN, J.

And

DR.G.JAYACHANDRAN, J.

This Habeas Corpus Petition is filed by the brother of the detenu, who was preventively detained under Act 14 of 1982, vide detention order dated 29.04.2021, by the second respondent.



2. Though several grounds pleaded in the Habeas Corpus Petition, challenging the legality of the detention order before this Court, the main ground is the delay by the authorities not considering the representation made on behalf of the detenu on 07.05.2021 till 15.06.2021 and thereafter called for remarks and rejected the same on 10.08.2021. The proforma furnished by the learned Additional Public Prosecutor though explains reasons for delay, for the second period, ie., from receipt of remarks till disposal, it is silent regarding the delay caused in the first part, ie., between the date of representation-07.05.2021 and the date the remarks was called-15.06.2021.

3. Though the learned Additional Public Prosecutor would state that the representation sent by the brother of the detenu through post on 07.05.2021 was received only on 15.06.2021, immediately remarks was called for on the same day. The postal tracking receipt filed by the petitioner indicates someone in the first respondent office has received the representation of the petitioner on 10.05.2021 and the same has not been seen the light of the day for nearly 35 days. Hence, on this sole ground of inordinate delay in considering the representation, the detention order is liable to be quashed.

4. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl.No.26/2021, dated 29.04.2021 is quashed. The detenu, by name, Mr.Suresh, S/o.Subramaniyanadar, aged about 43 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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, Chennai-600009.

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



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

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

4.The 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.

**H.C.P. (MD) No.727 of 2021
09.12.2021**

KS (CO)
GC (23.12.2021) 3P 6C