



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED :24.08.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN**

**and**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**H.C.P. (MD) No.928 of 2021**

Jeyaseeli Paulraj

... Petitioner

-VS-

1. The State of Tamil Nadu,  
represented by its  
Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.
  2. The District Collector/ District Magistrate,  
Collectorate, Tuticorin District.
  3. The Superintendent of Central Prison,  
Palayamkottai Central Prison,  
Thirunelveli District.
- ... Respondents

**PRAYER** : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records from the second respondent in H.S.(M) Confdl.No.115/2020 dated 2.12.2020 by setting aside the said order of detention passed by the second respondent and setting the detenu Ebenesar Prasath @ Prasath aged about 30 years, S/o.Paulraj Nadar at liberty, who is now detained in the Central Prison, Palayamkottai, Tirunelveli District.

For Petitioner :Mr.S.Moorthy

For Respondents :Mr.S.Ravi

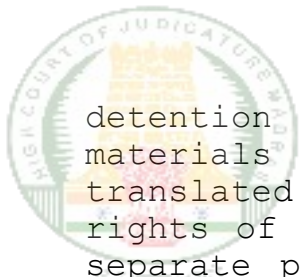
Standing counsel for State

**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, Ebenesar Prasath @ Prasath, S/o.Paulraj Nadar, aged about 30 years, challenging the detention order in H.S.(M) Confdl.No.115/2020, dated 2.12.2020, passed by the second respondent, branding him as "Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2. Mr.S.Moorthy, the learned counsel appearing for the petitioner would state that the detaining authority passed the



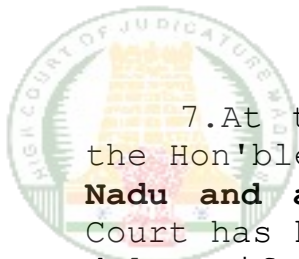
detention order in a mechanical manner based on the extraneous materials without application of mind. Non-furnishing of the translated version of some of the pages in the booklet affects the rights of the detenu to make an effective representation. There is separate proceedings for the offences alleged in the adverse case and the ground case and there is no necessity at all to detain the detenu under the Act 14. There is a delay in considering the representation of the petitioner.

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 1<sup>st</sup> respondent on 17.12.2020 which was received on 07.01.2021. Remarks on the said representation were called for on 08.01.2021 and it was received on 18.01.2021. The Deputy Secretary concerned has dealt with the representation on 19.01.2021 and the Hon'ble Minister concerned has dealt with the representation on 04.02.2021 and finally, the representation came to be rejected on 05.02.2021. It is seen that in between 08.01.2021 and 18.01.2021, there was a delay of 9 days and after excluding 6 Government Holidays, there was a delay of 3 days in the first part and in between 19.01.2021 and 04.02.2021, there was a delay of 15 days and after excluding 6 Government holidays, there was a delay of 9 days in the second part, in total, there was a delay of 12 days in considering the petitioner's consideration.



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 12 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 H.S(M) Confdl No.115/2020, dated 2.12.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Ebenesar Prasath @ Prasath, S/o.Paulraj Nadar, aged about 30 years, who is now detained at Central Prison, Palayamkottai, Tirunelveli 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)

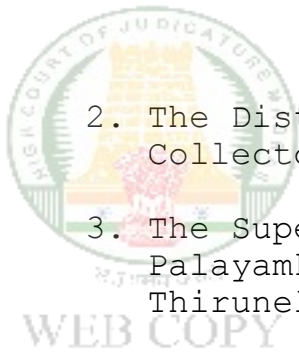
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**Note :**

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 to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 9.



2. The District Collector/ District Magistrate,  
Collectorate, Tuticorin District.
3. The Superintendent of Central Prison,  
Palayamkottai Central Prison,  
Thirunelveli District.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

H.C.P.(MD) No.928 of 2021  
DATED : 24.08.2021

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