



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.949 of 2021

WEB COPY

N.Palanivel

... Petitioner/father of the detenu

-VS-

1.Government of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli 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 entire records connected with the detention order of the second respondent in Cr.M.P.No.74/2020 dated 22.10.2020 and quash the same and direct the respondents to produce the body and person of the petitioner's son namely Ravi @ Theatre Ravi @ Ravichandran, Son of Palanivel, aged about 46 years and set him at liberty forthwith.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.S.Ravi

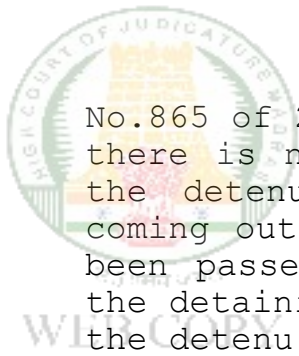
Standing counsel for the State

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 Ravi @ Theatre Ravi @ Ravichandran, aged about 46 years , challenging the detention order in Cr.M.P.No.74/2020 dated 22.10.2020, 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 there is no bail application pending in the ground case in Crime



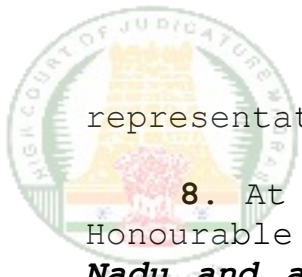
No.865 of 2020, at the time of passing the detention order, as such, there is no imminent or real possibility of coming out on bail by the detenu, whereas, stating that there is real possibility of coming out on bail by the detenu, the impugned detention order has been passed which reflects non-application of mind on the part of the detaining authority. It is further submitted that the arrest of the detenu was not intimated to the family members, which is against the guidelines issued by the Honourable Apex Court. It is also submitted that the bail order mentioned by the detaining authority is not a connected case and there is no possibility of coming out on bail by the detenu. It is further submitted that in the typed set of grounds furnished to the detenu, the copies are not at all legible and readable and therefore, the detenu could not make effective representation.

4. 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.

5. 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 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.

6. Heard the learned counsel for the petitioner as well as the respondents.

7. Perusal of the proforma furnished by the learned Standing Counsel appearing for the respondents would show that as against the impugned detention order, the petitioner made a representation to the first respondent dated 12.06.2021 and it was received on 15.06.2021. Remarks were called for on 15.06.2021 and it was received on 02.07.2021. The Deputy Secretary dealt with the matter on 02.07.2021. The concerned Minister dealt with the matter on 09.08.2021 and the representation came to be rejected on 09.08.2021. It is seen that in between 02.07.2021 and 09.08.2021, there was a delay of 30 days, after excluding the Government Holidays of 13 days, there was a delay of 17 days in considering the petitioner's



representation.

8. 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.

9. In the case on hand, as stated supra, the delay of 17 days in considering the representation of the petitioner remains unexplained 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 above decision of the Apex Court.

10. In fine, the Habeas Corpus Petition is allowed. The detention order in Cr.M.P.No.74/2020 dated 22.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, S Ravi @ Theatre Ravi @ Ravichandran, Son of Palanivel, aged about 46 years, who is now detained at Central Prison, Tiruchirapalli, 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-II)

// 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,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

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



3.The Superintendent,
Central Prison, Tiruchirappalli District.

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

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

H.C.P. (MD) No.949 of 2021

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