



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

H.C.P.(MD) No.1093 of 2021

Seenithai

... Petitioner/Wife of the Detenu

-Vs-

1. The Additional Chief Secretary to Government,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs)
Government of India,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
2. The Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Secretariate, Fort St.George,
Chennai - 600 009.
3. The District Collector and District Magistrate,
Virudhunagar District,
Virudhunagar
4. The Inspector of Police,
CSCID, Virudhunagar.
- 5.The Superintendent of Prison,
Central Prison,
Madurai.

...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 pertaining to the order of detention passed by third respondent in his proceedings in C.M.P.No.05/2021 (Black Marketer) dated 20.07.2021 and quash the same and produce the detenu namely, M.Seenipandian son of Muppidathi, aged about 37 years, now he is confined in Central Madurai, before this Court and set him at liberty.

For Petitioner
For Respondents

:Mr.T.Lenin Kumar
:Mr.S.Ravi

Additional Public Prosecutor



O R D E R

(Order of the Court was made by V. BHARATHIDASAN, J.)

This habeas corpus petition has been filed by the detenu, namely, M.Seenipandian son of Muppudathi, aged about 37 years, challenging the detention order in C.M.P.No.05/2021 dated 20.07.2021 passed by the second respondent, branding him as "Black Marketer" as contemplated under the provision of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No. 7 of 1980).

2.Mr.T.Lenin Kumar, learned counsel for the petitioner, would argue that even though 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 Additional Public Prosecutor, while reiterating the counter affidavit filed by the third respondent, 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 both sides and perused the materials available on record.

5. The documents would indicate that as against the impugned detention order, the petitioner has made a representation to the 1st respondent on 06.08.2021 which was received on 09.08.2021. Remarks on the said representation were called for on 10.08.2021 and it was received on 24.08.2021. It is seen that in between 10.08.2021 and 24.08.2021, there was a delay of 13 days. After excluding the government holidays of 5 days, there was a delay of 8 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 8 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 in C.M.P.No.05/2021 dated 20.07.2021 passed by the third respondent, is set aside. Consequently, the detenu, M.Seenipandian son of Muppidathi, aged about 37 years, who is now detained at Central Prison, Madurai, 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)

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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

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



4. The Inspector of Police,
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5. The Superintendent of Prison,
Central Prison,
Madurai.

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

H.C.P. (MD) No.1093 of 2021
DATED : 26.10.2021

NA (CO)
KB (18.11.2021) 4P 7C