



WEB COPY

H.C.P.(MD) No.1827 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD) No.1827 of 2021

E.Motheesh

... Petitioner/Detenu

-vs-

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Secretariat,
Chennai-600 009

2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Theni District, Theni.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 Respondent No.2 in Detention Order No.15/2021, dated 04.03.2021 and quash the same as illegal and direct the respondents to produce the body or person of the detenu by name E.Motheesh, son of Eswarana, aged 25 years, now detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.I.Sabeer Mohamed

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

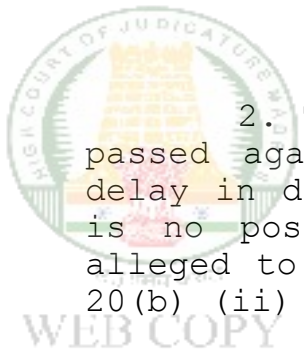
O R D E R

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

This habeas corpus petition has been filed by the detenu, namely, Motheesh, son of Eswarana, aged 25 years, challenging the detention order No.15/2021, dated 04.03.2021, passed by the second respondent, branding him as "Drug Offencer" as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982.



2. This petition has been filed to quash the detention order passed against detenu on 04.03.2021 on the ground of inordinate delay in disposing his representation and on the ground that there is no possibility of being enlarged on bail since the offence alleged to have been committed by him is for offence under Section 20(b) (ii) (B) of NDPS Act.

3. The learned Additional Public Prosecutor appearing for the respondents would submit that the final report in the ground case has already been filed before the Special Court.

4. As far as the plea of delay is concerned, this Court finds that the representation of the petitioner herein dated 16.03.2021 was rejected on 27.07.2021. The break-up for time taken furnished by the Additional Public Prosecutor is not satisfactory to this Court.

5. 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.

6. In the case on hand, as stated supra, the delay 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.

7. In fine, the Habeas Corpus Petition is allowed. The detention order No.15/2021, dated 04.03.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, Motheesh, son of Eswarana, aged 25 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.

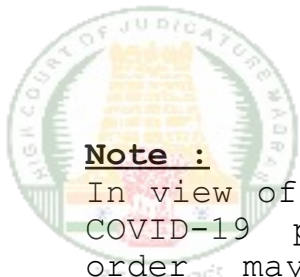
Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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,
Home, Prohibition and Excise Department,
State of Tamil Nadu, Secretariat,
Chennai-600 009
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Joint Secretary to Government,
Public(Law & Order),
Fort St. George,
Chennai - 600 009.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**H.C.P. (MD) No.1827 of 2021
16.12.2021**

MGJ(30.12.2021) 3P 6C