



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.1229 of 2020

Vinothpandian

... Petitioner / Detenue

-vs-

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District.
 - 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 B.C.D.F.G.I.S.S.S.V.No.36/2020, dated 21.12.2020 and quash the same and direct the respondents to produce the body or prson of the detenu by name Vinothpandian, son of Backiyanathan, aged about 32 years, now detained as 'GOONDA' at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner :Mr.R.Alagumani

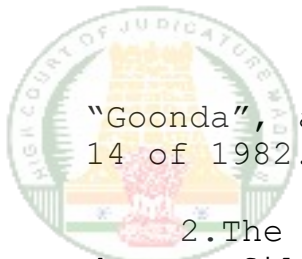
For Respondents :Mr.S.Ravi

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 detenu, namely, Vinothpandian, son of Backiyanathan, aged about 32 years, challenging the detention order in B.C.D.F.G.I.S.S.S.V.No.36/2020, dated 21.12.2020, passed by the second respondent, branding him as



"Goonda", as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.The learned counsel for the petitioner would state that the detenu filed bail application in the ground case and the same was pending at the time of passing the detention order. But, in paragraph 5 of the grounds of detention, the detaining authority mentioned, 'Hence, I infer that it is very likely of him coming out on bail by filing another bail petition, in the ground case' and it is a clear case of non application of mind on the part of the detaining authority. The Tamil and English version of the grounds of detention differs, it confuses the detenu to prefer effective representation. The detaining authority failed to supply all relied and referred documents to the detenu along with the booklet. There is also no material to show that the activities of the detenu is prejudicial to the maintenance of public law and order to brand him as goonda and there is an inordinate delay of 49 days in considering the petitioner's representation.

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 1st respondent on 25.12.2020, which was received on 31.12.2020. Remarks on the said representation were called for on 04.01.2021 and it was received on 02.02.2021. The Deputy Secretary concerned has dealt with the representation on 02.02.2021 and the



Hon'ble Minister concerned has dealt with the representation on 26.02.2021 and finally, the representation came to be rejected on 27.02.2021. It is seen that in between 31.12.2020 and 27.02.2021, there is a delay of 57 days. After excluding the government holidays of 33 days, there is a delay of 24 days in considering the petitioner's representation.

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 24 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 B.C.D.F.G.I.S.S.V.No.36/2020, dated 21.12.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Vinothpandian, son of Backiyanathan, aged about 32 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 (AE)

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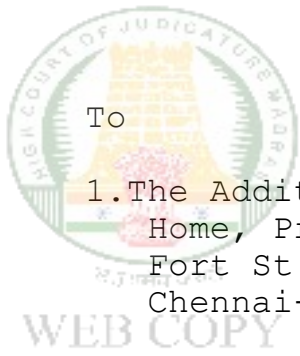
/ /2021

Sub Assistant Registrar(CS)

mpk

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,
Fort St. George, Secretariat
Chennai-600009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
4. The Joint Secretary to Government,
Public (Law &Order)
Fort St.Goerge,
Chennai 600 009
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.1229 of 2020
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PS (CO)
KB(21.09.2021) 4P 6C