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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

Coram

The Honourable Mr. Justice P.N.PRAKASH  
and  
The Honourable Mr. Justice A.A.NAKKIRAN

H.C.P.No.10 of 2022

Kathun Beevi .. Petitioner/Mother of Detenue

Vs.

1. State of Tamil Nadu represented by  
The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George,  
Chennai-600 009.

2. The Commissioner of police,  
Salem City,  
O/o.The Commissioner of Police,  
Linemedu, Salem - 636 006.

3. The Inspector of Police,  
Sooramangalam Police Station,  
Salem District.

4. The Superintendent of Prison,  
Central Prison,  
Salem, Salem District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order dated 06.10.2021 passed by the second respondent in his proceedings C.M.P.No.89/Goonda/Salem City/2021 and quash the same and direct the respondents herein to produce the petitioner's son viz., Sathik, son of Jaffar, aged about 35 years, who is presently undergoing detention in the Central Prison, Salem, as Goonda, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Vinoth

For Respondents : Mr.M.Babu Muthumeeran  
Addl. Public Prosecutor





for Home, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which, 1 day was Government Holiday, hence, there was an inordinate delay of 3 days in considering the representation.

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7. In *Rekha vs. State of Tamil Nadu* (2011 (5) SCC 244), the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

8. In *Sumaiya vs. The Secretary to Government* (2007 (2) MWN (Cr.) 145), a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In *Tara Chand vs. State of Rajasthan and others*, reported in 1980 (2) SCC 321, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 7 days in submitting the remarks by the Detaining Authority and unexplained delay of 3 days in considering the representation by the Hon'ble Minister for Home, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in C.M.P.No.89/Goonda/Salem City/2021 dated 06.10.2021, passed by the second respondent is set aside. The detenu, viz., Sathik, son of Jaffar, aged about 35 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

nsd



To

1. The Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George,  
Chennai-600 009.
2. The Commissioner of police,  
Salem City,  
O/o.The Commissioner of Police,  
Linemedu,  
Salem - 636 006.
3. The Inspector of Police,  
Sooramangalam Police Station,  
Salem District.
4. The Superintendent of Prison,  
Central Prison,  
Salem,  
Salem District.
5. The Joint Secretary to Government of Tamil Nadu,  
Public, Law and Order Department,  
Secretariat, Chennai - 9.
6. The Public Prosecutor,  
High Court, Madras.

H.C.P.No.10 of 2022

MG(CO)  
SU(22/04/2022)