



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

H.C.P.NO.59 OF 2022

Lakshmi
W/o.Marimuthu

...Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Dharmapuri.
- 3.The Superintendent of Police,
Dharmapuri District.
- 4.The Inspector of Police,
Pappireddipatti Police Station,
Dharmapuri District.
- 5.The Superintendent of Prison,
Central Prison,
Salem.

...Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent in S.C.No.20/2021 dated 23.08.2021 against the petitioner's son Prakashraj s/o.Marimuthu, aged about 19 years, who is confined in Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban
for Mr.A.Ilaya Perumal

For Respondents : Mr.M.Babu Muthu Meeran
Additional Public Prosecutor



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 8 days in submitting the remarks by the Detaining Authority and unexplained delay of 54 days in considering the representation by the Hon'ble Minister for Home, P&E. 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 S.C.No.20/2021 dated 23.08.2021 passed by the second respondent is set aside. The detenu, viz., Prakashraj s/o.Marimuthu, aged about 19 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

gm

To

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

2.The District Magistrate and District Collector,
Dharmapuri.



3.The Superintendent of Police,
Dharmapuri District.

4.The Inspector of Police,
Pappireddipatti Police Station,
Dharmapuri District.

5.The Superintendent of Prison,
Central Prison, Salem.

6.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.

7.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.A.Ilayaperumal, Advocate Sr.No.29751

H.C.P.No.59 of 2022

JP-II (CO)
RVM(29/04/2022)