



H.C.P.No.605 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.605 of 2022

Kumar

.. Petitioner

Vs.

- 1.The Chief Secretary to Government
of Puducherry,
Union of Puducherry,
Chief Secretariat, Puducherry.
- 2.The Secretary to Lieutenant Governor,
Rajnivas, Puducherry.
- 3.The District Magistrate
-cum-Authorized Officer,
Office of the District Magistrate,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam, Puducherry – 605 009.
- 4.The Special Secretary to Government (Home),
Government of Puducherry,
Chief Secretariat, Gubert Avenue
Puducherry – 605 001.
- 5.The Superintendent of Police, (North),
Puducherry.



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6.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.

7.The Station House Officer,
Reddiarpalayam Police Station,
Puducherry.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to calling for the records relating to the detention order in No.03/DM/RO/D2/PPASAA/2022, dated 12.01.2022 passed by the 3rd respondent under the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act 10 of 2010) and set aside the same and direct the respondents to produce the petitioner's son Arul @ Pazhani, S/o.Kumar, aged about 22 years, the detenu, now confined in the Central Prison, Kalapet, Puducherry, before this Court and set the petitioner's son Arul @ Pazhani, S/o.Kumar, aged about 22 years, the detenu herein at liberty.

For Petitioner : Mr.S.Senthilvel

For Respondents : Mr.V.Balamurugane
Public Prosecutor
(Puducherry)



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ORDER

[Made by *P.N.PRAKASH, J.*]

The petitioner is the father of the detenu Arul @ Pazhani, S/o.Kumar, aged about 22 years. The detenu has been detained by the third respondent by his order in Memo No.03/DM/RO/D2/PPASAA/2022 dated 12.01.2022, holding him to be a "Dangerous Person", as contemplated under Section 3(1) of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010). The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Public Prosecutor (Puducherry) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the



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representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

4. The learned Public Prosecutor (Puducherry) opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Public Prosecutor (Puducherry), no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The Detention Order in question was passed on 12.01.2022. The petitioner has made a representation on 26.04.2022 and the same was received on 06.05.2022. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 02.06.2022.

6. It is the contention of the petitioner that there was a delay of 27 days in considering the representation by the Government, of which 8 days were Government Holidays and hence there was an inordinate delay of 19 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 19 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.



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In the result, the Habeas Corpus Petition is allowed and the order of detention in Memo No.03/DM/RO/D2/PPASAA/2022 dated 12.01.2022, passed by the third respondent is set aside. The detenu, viz., Arul @ Pazhani, S/o.Kumar, aged about 22 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(P.N.P.,J.) (TKRJ)
01.11.2022

nsd



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To

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- 3.The District Magistrate
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- 6.The Chief Superintendent of Jail,
Central Prison, Kalapet,
Puducherry.
- 7.The Station House Officer,
Reddiyarpalayam Police Station,
Puducherry.
- 8.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 9.The Public Prosecutor,
High Court, Madras.



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