



WEB COPY



HCP No.885 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.885 of 2022

Guna
W/o.Palani

... Petitioner

Vs.

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

2.The District Collector and District Magistrate,
Ranipet District,
Ranipet – 1.

3.The Superintendent of Police,
Ranipet District, Ranipet.

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

5.The Inspector of Police,
Arcot Town Police Station,
Ranipet District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus calling for the records in connection with the



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order of detention passed by the second respondent dated 29.04.2022 in B3/D.O.No.15/2022 against the petitioner's son Ganesh s/o.Palani, aged 28 years, who is confined at 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.D.Balaji

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by ***RMT. TEEKAA RAMAN, J.***]

The petitioner is the mother of the detenu, Ganesh s/o.Palani, aged 28 years. The detenu has been detained by the second respondent by his order in B3/D.O.No.15/2022 dated 29.04.2022, holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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



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were called for by the Government from the Detaining Authority. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 14.06.2022.

6. It is the contention of the petitioner that there was a delay of 5 days in submitting the remarks by the Detaining Authority, of which 1 day was a Government holiday and hence, there was an inordinate delay of 4 days in submitting the remarks. There was a delay of 7 days in considering the representation by the Hon'ble Minister for Home, P&E after the Deputy Secretary dealt with it, of which 3 days were Government holidays. Hence, there was inordinate delay of 8 days in considering the representation.

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.



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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 4 days in submitting the remarks by the Detaining Authority and unexplained delay of 4 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 B3/D.O.No.15/2022 dated 29.04.2022, passed by the second



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respondent is set aside. The detenu, viz., Ganesh s/o.Palani, aged 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [TKR, J.]
01.11.2022

Index: Yes/No
gm

To

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



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

7.The Public Prosecutor,
High Court, Madras.



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