



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.1794 of 2021

R.Mahalingam  
S/o.Rasu

.. Petitioner

Vs.

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

2.The Commissioner of Police,  
Greater Chennai,  
Chennai.

3.The Superintendent,  
Central Prison, Puzhal,  
Chennai.

4.State represented by  
The Inspector of Police,  
D-6, Anna Square Police Station,  
Chennai.

.. 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 No.302/BCDFGISSSV/2021 dated 06.10.2021 against the petitioner's son Prasanth @ Padakombu Prasanth s/o.Mahalingam, aged about 28 years, who is confined in Central Prison, Puzhal, Chennai and set aside the same and Consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Saranraj

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



[Order of the Court was made by A.A.NAKKIRAN, J]

6. It is the contention of the petitioner that there was a delay of 14 days in submitting the remarks by the Detaining Authority, of which 7 days were Government holidays and hence, there was an inordinate delay of 7 days in submitting the remarks. It is the further contention of the petitioner that the remarks were received on 16.11.2021 and there was a delay of 12 days in considering the representation by the Hon'ble Minister



for Home, P&E after the Deputy Secretary dealt with it, of which 2 days were Government holidays. Hence, there was inordinate delay of 10 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.

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 10 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 No.302/BCDFGISSSV/2021 dated 06.10.2021 passed by the second respondent is set aside. The detenu, viz., Prasanth @ Padakombu Prasanth s/o.Mahalingam, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Secretary to the Government,  
Home, Prohibition and Excise Department,



Secretariat, Chennai - 600 009.

2.The Commissioner of Police,  
Greater Chennai,  
Chennai.

3.The Superintendent,  
Central Prison, Puzhal,  
Chennai.

4.The Inspector of Police,  
D-6, Anna Square Police Station,  
Chennai.

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

6.The Public Prosecutor,  
High Court, Madras.

7.The Director General of Police,  
Tamilnadu, Mylapore,  
Chennai-4.

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SPD(CO)  
SB(29/04/2022)