



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM

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

H.C.P.NO.1806 OF 2021

Rani
W/o.Vijay

.. Petitioner/
Mother of Detenue

Vs.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Commissioner Office,
Egmore, Chennai - 600 008.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Inspector of Police,
K-10 Police Station, Koyambedu,
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 relating to the impugned order in BCDFGISSSV No.179/2021 dated 02.07.2021 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the detenu Prakash @ Kosuru Suriya s/o.Vijay, aged about 21 years, who is now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

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



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 5 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 BCDFGISSSV No.179/2021 dated 02.07.2021 passed by the second respondent is set aside. The detenu, viz., Prakash @ Kosuru Suriya s/o.Vijay, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gm



To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Commissioner Office,
Egmore, Chennai - 600 008.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Inspector of Police,
K-10 Police Station, Koyambedu,
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.

H.C.P.No.1806 of 2021

AJB (CO)
PM/17/02/2022