



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM

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

H.C.P.No.1917 of 2021

J.Govindammal

..Petitioner

Vs.

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dharmapuri.
3. The Superintendent of Police,
Dharmapuri District, Dharmapuri.
4. The Superintendent of Prison,
Central Prison,Salem.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Harur, Dharmapuri District.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records of the 2nd respondent in reference to (Detention Order in S.C.No.24/2021) dated 20.10.2021 setting aside the order of detention passed therein and directing the respondent to produce the detenu by name Jayamani, son of Poochi, aged about 35 years, before this Court, now detained in the Central Jail at Salem and set him at liberty.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.M.Babu Muthumeeran
Addl. Public Prosecutor



Holidays, hence, there was an inordinate delay of 23 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 23 days in considering the representation by the Hon'ble Minister for Home, Prohibition and Excise Department. 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.24/2021 dated 20.10.2021, passed by the second respondent is set aside. The detenu, viz., Jayamani, son of Poochi, aged about 35 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

nsd
To

1. The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009.



2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dharmapuri.
3. The Superintendent of Police,
Dharmapuri District, Dharmapuri.
4. The Superintendent of Prison,
Central Prison,
Salem.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Harur, Dharmapuri District.
6. The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai - 9.
7. The Public Prosecutor,
High Court, Madras.

H.C.P.No.1917 of 2021

GPL (CO)
RGA (21/04/2022)