



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice A.A.NAKKIRAN

H.C.P.No.1848 of 2021

Manickkam

.. Petitioner

Vs.

1. State of Tamil Nadu represented by
The Secretary to the Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai-9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent,
Special Prison for Women,
Coimbatore.
4. The Inspector of Police,
Annadanapatty Police Station,
Salem City.

.. Respondents

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 order of detention passed by the 2nd respondent in C.M.P.No.92/I.T.O/Salem City/2021 dated 20.10.2021 against the petitioner's wife viz., Kalaiarasi, aged about 45 years, W/o.Manickkam, who is confined at the Special Prison for Women, Coimbatore and set aside the same and consequently direct the respondents to produce the detinue before this Court and set her at liberty forthwith.

For Petitioner : Mr.R.Nalliyappan

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



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

6. It is the contention of the petitioner that there was a delay of 10 days in submitting the remarks by the Detaining Authority, of which, 2 days were Government Holidays and hence there was an inordinate delay of 8 days in submitting the remarks. It is the further contention of the petitioner that the



remarks were received on 19.11.2021 and there was a delay of 4 days in considering the representation by the Hon'ble Minister for Home, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which, 2 days were Government Holidays, hence, there was an inordinate delay of 2 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 detainee.

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 detainee 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 8 days in submitting the remarks by the Detaining Authority and unexplained delay of 2 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 C.M.P.No.92/I.T.O/Salem City/2021 dated 20.10.2021, passed by the second respondent is set aside. The detainee, viz., Kalaiarasi, aged about 45 years, W/o.Manickkam, is directed to be released forthwith unless her detention is required in connection with any other case.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

nsd



To

1. The Secretary to the Government (Home),
Prohibition and Excise Department,
Secretariat, Chennai-9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent,
Special Prison for Women,
Coimbatore.
4. The Inspector of Police,
Annadanapatty Police Station,
Salem City.
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.1848 of 2021

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NSK/11/04/2022