



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

Coram

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

H.C.P.No.1997 of 2021

Mohammed Aslam Basha

.. Petitioner

Vs.

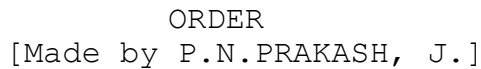
1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
2. The Commissioner of Police,
Greater Chennai,
Veppery,
Chennai.
3. The Superintendent of Police,
Central Prison,
Puzhal,
Chennai.
4. The Inspector of Police, (Crime),
C-1, Flower Bazzar Police Station,
Chennai.

.. Respondents

Prayer: 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 second respondent dated 23.10.2021 in No.321/BCDFGISSSV/2021 against the petitioner's son Mohammed Zameer, male, aged about 30 years, son of Mohammed Aslam Basha, who is confined at the Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Illiyas

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



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 09.12.2021 and there was a delay of 25 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, 8 days were Government Holidays, hence, there was an inordinate delay of 17 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 8 days in submitting the remarks by the Detaining Authority and unexplained delay of 17 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 No.321/BCDFGISSSV/2021 dated 23.10.2021, passed by the second respondent is set aside. The detenu, viz., Mohammed Zameer, male, aged about 30 years, son of Mohammed Aslam Basha, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar

True Copy//

Sub Assistant Registrar



1. The Secretary to Government,
Home, Prohibition and Excise Department,
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2. The Commissioner of Police,
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Veppery, Chennai.
3. The Superintendent of Police,
Central Prison,
Puzhal, Chennai.
4. The Inspector of Police, (Crime),
C-1, Flower Bazaar 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.

H.C.P.No.1997 of 2021

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NSK 10/05/2022