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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.2023 of 2021

Anitha

.. Petitioner

Vs.

1. State represented by
The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Secretariat,
Chennai-600 009.
2. The Commissioner of Police/
Detaining Authority,
Office of the Commissioner of Police,
Coimbatore City.
3. The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram.
4. The Inspector of Police,
D-1, Ramanathapuram Police Station,
Coimbatore District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records in detention order in C.No.45/G/IS/2021 dated 15.10.2021 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's husband detenu S.Mohammed Thambi @ Mahi, S/o.Syed Mohammed, aged 33 years, now confined in the Central Prison at Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.M.Mohamed Saifulla

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



for Home, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which, 6 days were Government Holidays, hence, there was an inordinate delay of 14 days in considering the representation.

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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 6 days in submitting the remarks by the Detaining Authority and unexplained delay of 14 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.No.45/G/IS/2021 dated 15.10.2021, passed by the second respondent is set aside. The detenu, viz., S.Mohammed Thambi @ Mahi, S/o.Syed Mohammed, aged 33 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,
Home, Prohibition and Excise (XVI) Department,
Fort St.George, Secretariat,
Chennai-600 009.
2. The Commissioner of Police/
Detaining Authority,
Office of the Commissioner of Police,
Coimbatore City.
3. The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram.
4. The Inspector of Police,
D-1, Ramanathapuram Police Station,
Coimbatore District.
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.2023 of 2021

BR(CO)
CT 10/05/2022