



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.2028 of 2021

Mohanavalli

..Petitioner/Wife of
the Detenue

Vs.

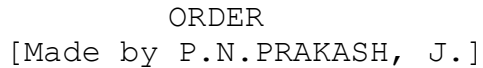
1. State of Tamil Nadu represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-9.
2. The Commissioner of Police/
Detaining Authority,
Coimbatore City.
3. The Inspector of Police,
D-3, Podanur Police Station (L & O),
Coimbatore.
4. The Superintendent of Prison,
Central Prison,
Coimbatore.

..Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus calling for the records of the detention made in C.No.48/G/IS/2021 dated 29.10.2021 passed by the Commissioner of Police/Detaining Authority, Coimbatore City, the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu V.Vijayakumar, son of Velusamy, aged 27 years, now confined in the Central Prison, Coimbatore and set him at liberty.

For Petitioner : Mr.R.Balakrishnan

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





Holidays, hence, there was an inordinate delay of 19 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 6 days in submitting the remarks by the Detaining Authority and unexplained delay of 19 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.48/G/IS/2021 dated 29.10.2021, passed by the second respondent is set aside. The detenu, viz., V.Vijayakumar, son of Velusamy, aged 27 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 Department,
Secretariat, Chennai-9.



2. The Commissioner of Police/
Detaining Authority,
Coimbatore City.

3. The Inspector of Police,
D-3, Podanur Police Station (L & O),
Coimbatore.

4. The Superintendent of Prison,
Central Prison,
Coimbatore.

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.2028 of 2021

NMI (CO)
RGA(10/05/2022)