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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2022

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The Honourable Mr. Justice S.VAIDYANATHAN
and
The Honourable Mr. Justice A.D.JAGADISH CHANDIRA

H.C.P.No.2124 of 2021

M.Kumar

.. Petitioner/Uncle of the detenu

Vs

1. The Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai - 9.
2. The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
3. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
4. The Superintendent of Prisons,
Central Prisons,
Vellore - 632 004.
5. The Inspector of Police,
Pudhupalayam Police Station,
Chengam Taluk,
Tiruvannamalai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the 2nd respondent in DO.No.103 of 2021/C2 dated 11.11.2021 and quash the same and directing the respondents to produce the corpus of the detenu namely Mathi @ Madhusudhanan (M/34) s/o.Natarajan, No.36, Pillayar Koil Street, GN Palayam Village, Chengam Taluk, Tiruvannamalai District (detained in Central Prison (Men) Vellore) before this Court and set him at liberty.



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For Petitioner : Mr.S.Kumaradevan

For Respondents : Mr.E.Raj Thilak
Addl. Public Prosecutor

ORDER

S.VAIDYANATHAN, J.
and
A.D.JAGADISH CHANDIRA, J.

The petitioner is the uncle of the detenu Mathi @ Mathusuthanan aged 34years, S/o.Natarajan. The detenu has been detained by the second respondent by his order in DO.No.103/2021-C2 dated 11.11.2021, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made on behalf of the petitioner was not considered in time and there was an inordinate and unexplained delay.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. The Detention Order in question was passed on 11.11.2021. The petitioner made a representation on 14.12.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 21.12.2021. The remarks were duly



11.11.2021, passed by the second respondent is set aside. The detenu, viz., Mathi @ Mathusuthanan aged 34 years, S/o.Natarajan, is directed to be released forthwith unless his detention is required in connection with any other case.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai - 9.
2. The District Collector and District Magistrate,
Tiruvannamalai District,
Tiruvannamalai.
3. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
4. The Superintendent of Prisons,
Central Prisons,
Vellore - 632 004.
5. The Inspector of Police,
Pudhupalayam Police Station,
Chengam Taluk,
Tiruvannamalai District.
6. The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary to Government,
Public (Law and Order) Department.
Fort St.George, Chennai-9.

+1cc to Mr.S.Kumaradevan, Advocate, S.R.No.35196

H.C.P.No.2124 of 2021

CA(CO)
UMA(21/06/2022)