



H.C.P.(MD)No.473 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

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Nagaraj

: Petitioner/

Father of the detenu

Vs.

1.The Additional Chief Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

2.The District Collector and District Magistrate
Tiruchirappalli District
Tiruchirappalli.

3.The Superintendent of Prison
Central Prison
Tiruchirappalli

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records pertaining to the impugned detention order passed by the 2nd respondent



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made in his proceedings in Cr.M.P.No.49/2021 dated 29.12.2021 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu namely Prabakaran @ Marudairaj S/o.Nagaraj, Male aged about 34 years, who is detained at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J)

The petitioner is the mother of the detenu viz., Prabakaran @ Marudairaj S/o.Nagaraj aged about 34 years. The detenu has been detained, as per the order of the second respondent, dated 29.12.2021 under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as “Goonda”. Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.



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2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 29.12.2021 and the grounds of detention ought to have been served within five days, ie., on or before 03.01.2022. However, it was served on the detenu only on 05.01.2022 and therefore, there is a delay of six days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.

4. Perusal of the record shows that no doubt, the detention order was passed on 29.12.2021 and the booklet was served on the detenu only on 05.01.2022. As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In



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the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of five days and hence, the detention order is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.49/2021 dated 29.12.2021 passed by the second respondent is set aside. The detenu, viz., Prabakaran @ Marudairaj S/o.Nagaraj, aged about 34 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[P.N.P., J.] & [R.H., J.]
03.08.2022

Internet : Yes

RR

To

- 1.The Additional Chief Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9.
- 2.The District Collector and District Magistrate
Tiruchirappalli District, Tiruchirappalli.
- 3.The Superintendent of Prison
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**P.N.PRAKASH J
AND
R.HEMALATHA, J**

RR

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
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