



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.05.2022

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

H.C.P.(MD) No.528 of 2022

Baskar

... Petitioner/Detenu

Vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Cr.M.P.No.28 of 2021, dated 11.06.2021 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 Baskar, S/o.Singarayar, male aged about 31 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

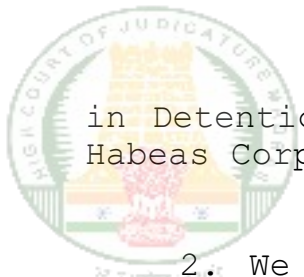
For Petitioner : Mr.A.Joseph Jerry

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor

O R D E R

(Order of the Court was made by T.RAJA, J.)

The petitioner is the detenu and challenging the legality of the impugned order of detention, dated 11.06.2021, passed by the second respondent, under Section 3(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982, (Tamil Nadu Act 14 of 1982) and branding him as 'Goonda'



in Detention Order No.28 of 2021, came forward to file the present Habeas Corpus Petition.

2. We have heard Mr.A.Joseph Jerry, learned counsel appearing for the petitioner and Mr.S.Ravi, learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

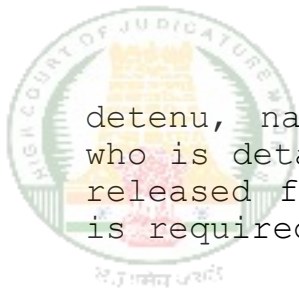
3. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for the petitioner would mainly focus his argument on the ground of delay and submitted that the Detention Order was passed on 11.06.2021. As against the same, a representation was made dated nil and the same was received on 14.03.2022. The remarks were called for by the Government from the Detaining Authority on 14.03.2022. The remarks were received on 23.03.2022, in which there is a delay of 5 days after excluding the Government Holidays of 3 days. Though the Deputy Secretary to Government dealt with the same on 23.03.2022, the Hon'ble Minister for Electricity and Prohibition and Excise dealt with the same only on 04.05.2022, in which there is a delay of 26 days after excluding the Government Holidays of 15 days and the rejection letter was sent to detenu on 04.05.2022. It is the contention of the petitioner that there was delay of 31 days in considering the representation.

4. 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/detenu would be sufficient to set aside the detention order.

5. In ***Tara Chand Vs. State of Rajasthan and others, [1980 (2) SCC 321]***, the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the detention illegal. This dictum has been followed in several Judgments consistently by the Hon'ble Supreme Court as well as this Court.

6. Applying the said dictum laid down by the Hon'ble Supreme Court, if we look into the facts of the present case, undoubtedly, there is an inordinate and unexplained delay of 31 working days and therefore, the impugned detention order is liable to be quashed.

7. In the result, the Habeas Corpus Petition is allowed by setting aside the Order of Detention passed by the second respondent herein in Cr.M.P.No.28 of 2021, dated 11.06.2021. Consequently, the



detenu, namely, Baskar, S/o.Singarayar, male aged about 31 years, who is detained in Central Prison, Tiruchirappalli is directed to be released forthwith unless his presence [or] custody [or] detention is required in connection with any other case/proceedings.

WEB COPY

Sd/-

Vacation Officer/
Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

pm/ps

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tiruchirappalli District,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison,
Tiruhcirappalli.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.528 of 2022
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