



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P.(MD) No.664 of 2021

(Through video conference)

Dhineshkumar

... Petitioner / Detenue

Vs.

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

2.The District Collector and District Magistrate,
Office of the District collector and District Magistrate,
Ramanathapuram District.

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

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order of the second respondent in S.R.No.19/Goonda/2021 dated 06.04.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name, Dhineshkumar, son of Murugesan, aged about 28 years, now detained as "Goonda" at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

O R D E R

S.VAIDYANATHAN, J.

and

DR.G. JAYACHANDRAN, J.

[Order of the Court was made by **DR.G. JAYACHANDRAN, J.**]

The petitioner was preventively detained by order of the District Collector, dated 06.04.2021, being satisfied that the petitioner is a 'Goonda' as defined under Act 14 of 1982.



2. The ground case under which the petitioner was detained is in respect of the case registered by Abiramam Police Station in Crime No.103 of 2021 under Section 399 of IPC along with five other accused. While, they were conspiring to loot houses located in isolated area in Abiramam and surrounding village. The accused was arrested in that case on 18.03.2021 and remanded to judicial custody. Thereafter based on the confession statement, it is come to the notice of the respondent police that this petitioner had involved four other cases of temple breaking and looting the Hundial collection and valuables in the temple.

3. The detention order is mainly challenged on the ground of delay.

4. According to the petitioner, his representation, dated 12.04.2021 was not disposed of within the statutory period prescribed under Act 14 of 1982. It is stated that remarks for his representation was called and received after delay of eight days and after receiving the remarks, it was not disposed of by the Government within the reasonable time and his representation was rejected only on 07.06.2021.

5. The learned Additional Public Prosecutor would submit that the representation sent to the Collector was considered and rightly rejected within the reasonable time and delay whatsoever is properly explained. However, from the date of movement of the representation as provided in the proforma furnished by the learned Additional Public Prosecutor, this Court finds that the Government, after receiving the file on 03.05.2021 had disposed the representation only on 07.06.2021 except explaining for 9 days, which are Government holidays. The counter filed by the second respondent does not give any plausible reason for the said delay. Hence, for the said reason, the detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition is allowed. The detention order passed by the second respondent, in S.R.No.19/Goonda/2021, dated 06.04.2021 is set aside. Consequently, the detenu, namely, Dhineshkumar, son of Murugesan, aged about 28 years, who is now detained in Central Prison, Madurai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

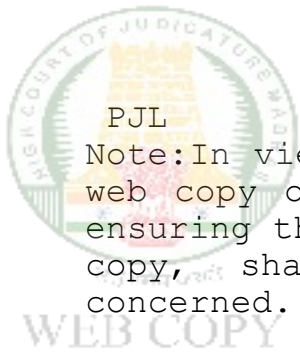
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



PJL

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 Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Office of the District collector and District Magistrate,
Ramanathapuram District.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
4. The Joint Secretary to Government,
Public (Law & Order), Fort saint George, Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No. 664 of 2021
20.01.2022

RD(08.02.2022) 3P 6C