



HCP(MD)No.616 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.09.2022

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**THE HON'BLE MRS JUSTICE J. NISHA BANU**

**AND**

**THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

**H.C.P.(MD)No.616 of 2022**

Ramjan Kani

.. Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep. by the Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai - 600 009.

2.The Commissioner of Police,  
Tirunelveli City,  
Tirunelveli.

3.The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli.

.. Respondents



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**PRAYER :** Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention order passed in No.30/BCDFGISSSV/2022 dated 22.03.2022 on the file of the second respondent herein and to quash the same and direct the respondents to produce the detenu or body of the detenu namely, Ramjan Kani, aged about 25 years, S/o.Sheik, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

**J. NISHA BANU,J.**

**and**

**N. ANAND VENKATESH,J.**

The petitioner is the detenu viz., Ramjan Kani, aged about 25 years, S/o.Sheik. The detenu has been detained by the second respondent by his order in Detention Order No.30/BCDFGISSSV/2022 dated 22.03.2022 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.



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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 his argument on the following grounds:

(i) there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay, and

(ii) the detaining authority has relied upon and taken into consideration the order passed in Cr.M.P.No.7991 of 2021, dated 18.11.2021 and has come to a conclusion that the bail has been given in a similar and therefore, there is a likelihood of the detenu being released on bail. According to the learned counsel for the petitioner, the bail order did not pertain to the similar case.



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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 22.03.2022. The petitioner made a representation dated 05.04.2022. Thereafter, remarks were called for by the Government from the Detaining Authority on 18.04.2022. The remarks were duly received on 28.04.2022. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 05.05.2022.

6. It is the contention of the petitioner that there was a delay of 9 days in submitting the remarks by the Detaining Authority, of which 3 days were Government holidays and hence there was an inordinate delay of 6 days in submitting the remarks and further there was a delay of two days



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in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department after the Deputy Secretary.

7. On carefully going through the detention order, insofar as the second ground that was urged by the learned counsel for the petitioner, it is seen that the ground case is for the offence under Section 307 and 397 IPC, whereas, the bail order pertaining to offence under Section 324 and 307 IPC and that was the case where the injured has been discharged from the hospital and the Court took into consideration, the long incarceration. The facts pertaining to the case in CrI.M.P.No.7991 of 2021 cannot be considered to be a similar case. It, therefore, reflects non-application of mind on the part of the detaining authority to come to the subjective satisfaction.

8. In view of the above, the detention order suffers from non-application of mind on the part of the detaining authority and the same is liable to be interfered with by this Court. The impugned detention order is, therefore, liable to be quashed.



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9. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.30/BCDFGISSSV/2022 dated 22.03.2022 passed by the second respondent is set aside. The detenu, viz., Ramjan Kani, aged about 25 years, S/o.Sheik, is directed to be released forthwith unless his detention is required in connection with any other case.

**(J.N.B.,J.) (N.A.V.,J.)**  
**30.09.2022**

Index : Yes/No  
Internet : Yes  
RM



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To

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Madurai Bench of Madras High Court,  
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