



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

H.C.P. (MD) No.837 of 2021

Thaiyal Nayagi

... Petitioner /
Mother of the Detenue

Vs.

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

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

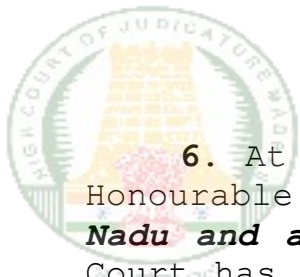
3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... 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 pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.O.No.27 of 2021, dated 22.05.2021, in detaining the detenue under Section 2(b) of the Tamilnadu Act 14 of 1982 as a Boot-Legger and quash the same and direct the respondents to produce the detenue, namely, Sakthivel, S/o.Arumugam, Male, aged about 32 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.S.Ravi
Additional Public Prosecutor



6. At this juncture, it is useful to refer the decision of the Honourable Apex Court in the case of **Rajammal vs. State of Tamil Nadu and another**, reported in **1999 (1) SCC 417**, wherein, the Apex Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of any indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner.

7. In the case on hand, as stated supra, the delay of 20 days in considering the representation of the petitioner remains unexplained by the respondents. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of delay by following the above decision of the Apex Court.

8. In the result, this Habeas Corpus Petition is allowed. The detention order passed by the second respondent, in P.D.O.No.27 of 2021, dated 22.05.2021 is set aside. Consequently, the detenu, namely, Sakthivel, son of Arumugam, aged about 32 years, who is now 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.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

To

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

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

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

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

<https://hcservices.ecourts.gov.in/hcservices/>



5.The Joint Secretary to Government,
Public(Law & Order),
Fort St. George,
Chennai - 600 009.

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MGJ(01.02.2022) 4P 6C