



HCP(MD)No.742 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.08.2022

CORAM

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mrs. Justice **R.HEMALATHA**

H.C.P.(MD)No.742 of 2022

Ida Nesarani

... Petitioner/sister
of the detenu

Vs

- 1.The State of Tamilnadu
rep. by the Secretary to Government,
Home, (Prohibition and Excise) Department,
Secretariat
Chennai-9.
- 2.The District Collector and District Magistrate
Kanyakumari District,
Nagercoil.
- 3.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District
- 4.The Superintendent
Central Prison,
Palayamkottai

... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the 2nd respondent in P.D.No.04/2022 dated 13.01.2022 and to quash the same and direct the respondents to produce the person or body of the detenu, Ajith, S/o.Selvaraj, aged about 26 years, before this Court and set him at liberty, now detained at Central Prison, Palayamkottai.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **R.HEMALATHA, J.**]

The petitioner is the sister of the detenu viz., Ajith aged about 26 years, S/o.Selvaraj. The detenu has been detained by the second respondent by his order in P.D.No.04/2022 dated 13.01.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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.



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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 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.

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 13.01.2022. The petitioner made a representation dated 02.05.2022. The Government considered the matter and passed the order rejecting the petitioner's



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9. In **Tara Chand vs. State of Rajasthan and others**, reported in **1980 (2) SCC 321**, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 17 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.04/2022 dated 13.01.2022 passed by the second respondent is set aside. The detenu, viz., Ajith S/o.Selvaraj, aged about 26 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.)
24.08.2022

Internet : Yes
RR



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To

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3. The Inspector of Police,
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4. The Superintendent
Central Prison,
Palayamkottai
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
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RR

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