



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.1000 of 2021

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Ramaiah @ Ranasinga Ramaiya Thalaivar ... Petitioner/
Father of the 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,
Ramanathapuram District,
Ramanathapuram.
 - 3.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.
 - 4.The Superintendent of Prison,
Central Prison, Madurai,
Madurai District.
- ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the respondents herein to produce the detenue Kalimuthu, S/o.Ramaiah @ Ranasinga Ramaiya Thalaivar, aged about 39 years, who has been termed as Goonda, who is now detained at Central Prison, Madurai, before this Court and to call for the entire records in relating to the impugned detention order in S.R.No.36/Goonda/2021 dated 05.06.2021 passed by the second respondent and to set aside the same and set the detenue at liberty.

For Petitioner : Mr.M.S.Jeyakarthik
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor.

O R D E R

The petitioner is the father of the detenu, namely, Kalimuthu, S/o.Ramaiah @ Ranasinga Ramaiya Thalaivar, aged about 39 years. The detenu has been detained by the second respondent by his proceedings in S.R.No.36/Goonda/2021 dated 05.06.2021 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.



2. We have heard the learned counsel 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 ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representations made by the petitioner were not considered on time and there was an inordinate and unexplained delay with regard to the same.

4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. 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 05.06.2021. The petitioner made a representation, dated 10.07.2021 and the same was received on 14.07.2021. Thereafter, remarks were called for by the Government from the Detaining Authority on 15.07.2021 and remarks were received on 26.07.2021, in which, there is a delay of 6 days excluding the Government Holidays of 5 days. Thereafter, the Deputy Secretary has dealt with the representation on 28.07.2021 and Minister for Electricity, Prohibition and Excise has dealt with the representation on 09.08.2021, in which, there is a delay of 7 days excluding the Government Holidays of 4 days. Ultimately, the petitioner's representation was rejected on 09.08.2021. Thus there is a delay of 13 days in considering the representation which remains unexplained.

6. In **Rekha vs. State of Tamil Nadu**, reported in **2011 (5) SCC 244**, the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

7. In **Sumaiya vs. The Secretary to Government**, reported in **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 would be sufficient to set aside the order of detention.



8. 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.

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9. In the subject case, admittedly, there is an unexplained delay of 13 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

10. In the result, the Habeas Corpus Petition is allowed and the order of detention in S.R.No.36/Goonda/2021 dated 05.06.2021 passed by the second respondent is set aside. The detenu, namely, Kalimuthu, S/o.Ramaiah @ Ranasinga Ramaiya Thalaivar, aged about 39 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Ramanathapuram District,
Ramanathapuram.



3.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.

4.The Superintendent of Prison,
Central Prison, Madurai,
Madurai District.

5.The Joint Secretary to Government,
Public(Law & Order) Department,
Fort St.George, chennai-9.

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-5535[F] dated 11/02/2022
)

H.C.P. (MD)No.1000 of 2021

10.02.2022

SS/24.02.2022 : 4P/8C