



H.C.P.(MD)No.920 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

H.C.P.(MD)No.920 of 2022

Elangovan

: Petitioner/

brother of the detenu

Vs.

1.The Additional Chief Secretary to the Government
State of Tamilnadu,
Home, Prohibition and Excise Department
Secretariat, Chennai-9.

2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Trichy.

3.The Superintendent of Prison
Trichy Central Prison
Tiruchy District

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus, to call for the entire



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records connected with the detention order of the respondent No.2 in Cr.M.P.No.44/2021 dated 10.11.2021 and quash the same and direct the respondents to produce the body or person of the detenu by name Thiru.Vadi alias Vadivel, son of Mottaiyan, aged about 28 years, now detained as Goonda at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.G.Kalidoss

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J)

The petitioner is the brother of the detenu viz., Vadi @ Vadivel S/o.Mottaiyan, aged about 28 years. The detenu has been detained, as per the order of the second respondent in Cr.M.P.No.44/2021, dated 10.11.2021 under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as “Goonda”. Challenging the same, the petititoner is before this Court in this Habeas Corpus Petition.



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2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

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 the detention order was passed on 10.11.2021 and the grounds of detention ought to have been served within five days, ie., on or before 15.11.2021. However, it was served on the detenu only on 18.11.2021 and therefore, there is a delay of seven days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.

4. Perusal of the record shows that no doubt, the detention order was passed on 10.11.2021 and the booklet was served on the detenu only on 18.11.2021. As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In



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the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of seven days and hence, the detention order is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.44/2021 dated 10.11.2021 passed by the second respondent is set aside. The detenu, viz., Vadi @ Vadivel, S/o.Mottaiyan, aged about 28 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 Superintendent of Prison
Trichy Central Prison
Trichy District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**P.N.PRAKASH J
AND
R.HEMALATHA, J**

RR

Order made in
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