



HCP(MD)No.1427 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2022

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

H.C.P.(MD)No.1427 of 2022

Dhanalakshmi

..Petitioner /mother
of the detenu

Vs.

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

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

3.The Inspector of Police,
Mathur Police Station,
Pudukottai District
Crime No.27 of 2022

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

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to direct the respondents to produce the person or body of detenu namely Maruthupandi, aged about 32 years son of Duraipandi before this Court, who is now detained in the Central Prison, Trichy in pursuant to the detention order passed by the 2nd respondent in PDO No.22 of 2022 dated 17.04.2022 and to call for the records and quash the same and set the detenu at liberty forthwith.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

The petitioner is the mother of the detenu viz., Maruthupandi aged about 32 years, S/o.Duraipandi. The detenu has been detained by the second respondent by his order in PDO No.22 of 2022 dated 17.04.2022 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) 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



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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 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. It is further submitted that investigation was completed in this case and charge sheet has been filed on 06.05.2022 on time and the case is pending in Spl.S.C.No.39/2022 on the



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file of the Mahila Court, Pudukottai.

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5. The Detention Order in question was passed on 17.04.2022. The petitioner made a representation dated 23.04.2022. Thereafter, remarks were called for by the Government from the Detaining Authority on 26.04.2022; remarks were duly received on 20.06.2022 and thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 26.05.2022.

6. It is the contention of the petitioner that there was a delay of 33 days, in receiving the remarks by the detaining authority and out of which, 7 days were Government Holidays and hence, there was inordinate delay of 26 days in receiving the remarks.

7. In **Rekha vs. State of Tamil Nadu (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.



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(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.

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 26 days in receiving the remarks by the detaining authority and 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 is set aside. Since it is submitted that the final report has been filed, there



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shall be a direction to the concerned Magistrate to immediately act upon the same and proceed in accordance with law. passed by the second respondent is set aside. The detenu, viz., Maruthupandi S/o.Duraipandi, aged about 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (N.A.V.,J.)
29.11.2022

Internet : Yes
RR

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Pudukottai District, Pudukottai.
- 3.The Inspector of Police,
Mathur Police Station, Pudukottai District
- 4.The Superintendent of Prison
Central Prison, Tiruchirappalli
Tiruchirappalli District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.S.RAMESH,J.
and
N. ANAND VENKATESH,J.

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