



WEB COPY

H.C.P.(MD) No.1993 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1993 of 2021

Karpagavalli

... Petitioner/
Writ of the Detenu

Vs.

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs
Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krishibhavan,
New Delhi - 110 001.

2.The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Fort St. George,
Chennai - 600 009.

3.The District Collector and District Magistrate,
Madurai District,
Madurai.

4.The Inspector of Police,
CSCID, Madurai.

5.The Superintendent of Prison,
Central Prison,
Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the third respondent in his proceedings C.M.P. No.03/2021(CS) dated 09.12.2021 and quash the same as illegal and produce the detenu namely, Vinoth @ Rajavelu, S/o.Mani, aged about 28 years, now he is confined in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.T.Lenin Kumar

For Respondents 2 to 5 : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor.



O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

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The petitioner is the wife of the detenu, namely, Vinoth @ Rajavelu, S/o.Mani, aged about 28 years. The detenu has been detained by the third respondent by his proceedings in C.M.P.No.03/2021(CS) dated 09.12.2021 holding him to be a "Black Marketer", as contemplated under the provision of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980) 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 respondents 2 to 5. We have also perused the records produced by the Detaining Authority.

3. Though the learned counsel for the petitioner would urge several grounds in his challenge to the detention order, we do not think it is necessary for us to consider all the grounds in detail.

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. A reading of the English and Tamil version would show that the translation is imperfect. Though the English version says that there is a real possibility of the detenu coming out on bail, the same is missing in the Tamil version. Apart from the above, though the representation dated 22.12.2021 was received on 28.12.2021, it was rejected only on 11.01.2022 with the delay of 11 days, after excluding the Government Holidays of 4 days. The delay in considering the representation 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) MN (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.

9. In the subject case, admittedly, there is an unexplained delay of 11 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 C.M.P.No.03/2021(CS) dated 09.12.2021 passed by the third respondent is set aside. The detenu, namely, Vinoth @ Rajavelu, S/o.Mani, aged about 28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs Food and Public Distribution
(Department of Consumer Affairs)
Room No.270, Krishibhavan,
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2.The Secretary,
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3.The District Collector and District Magistrate,
Madurai District,
Madurai.



4.The Inspector of Police,
CSCID, Madurai.

5.The Superintendent of Prison,
Central Prison,
Madurai.

6.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George,
Chennai-9

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

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-18261[F]
dated 12/04/2022)

H.C.P. (MD) No.1993 of 2021
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