



HCP No.594 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.594 of 2022

Savithiri
W/o.Natarajan

... Petitioner(wife of detenu)

-VS-

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Prohibition & Excise Department [Home]
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Chennai City, Vepery,
Chennai – 600 007.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
S-10 Pallikaranai [S-16 Perumbakkam]
Police Station, Chennai.

... Respondents



HCP No.594 of 2022

Habeas Corpus 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 detenu's detention order passed by the second respondent BCDFGISSSV No.22/2022 dated 11.03.2022 and set aside the same and produce the detenu Natarajan @ Bombkai Natarajan male aged about 24, son of Jeeva, now detained in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner .. Mr.S.Dhanasekar

For Respondents .. Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SUNDAR, J.]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of convenience and brevity] has been filed in this Court on 07.04.2022 assailing an 'order of detention dated 11.03.2022 bearing reference BCDFGISSSV No.22/2022' [hereinafter referred as 'impugned detention order' for the sake of convenience and clarity] made by the 'second respondent' [hereinafter referred as 'detaining authority' for the sake of convenience and clarity].



HCP No.594 of 2022

WEB COPY 2.Mr.S.Dhanasekar, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for all the respondents are before us.

3.The impugned detention order has been made by the detaining authority on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders Slum grabbers and Video Priates Act, 1982 (Tamil Nadu Act 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience].

4.A perusal of the impugned detention order brings to light that there are two adverse cases and one ground case. Suffice to say that the ground case is Crime No.513 of 2021 for alleged offences under Sections 147, 148, 341, 324, 307 and 506(ii) of the Indian Penal Code [45 of 1860], which shall hereinafter be referred to as 'IPC' for the sake of brevity and convenience.



HCP No.594 of 2022

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5.The short point urged by learned counsel for petitioner is, post impugned detention order the petitioner has sent a representation dated 06.04.2022 and there is delay in considering the representation.

6.Responding to this point, learned Additional Public Prosecutor submits that representation dated 06.04.2022 was received by the first respondent only on 11.04.2022. Learned Additional Public Prosecutor placed before us a chronicle together with a tabulation qua the trajectory the consideration of representation took and a list of critical dates therein is as follows:

Representation dated	- 06/04/2022
Representation received on dated	- 11/04/2022
Remarks called for on dated	- 11/04/2022
File submitted on dated	- 21/04/2022
Deputy Secretary dealt with on	- 21/04/2022
Minister [Electricity, Prohibition and Excise] dealt with on	- 22/04/2022
Rejection Letter prepared on	- 25/04/2022
Rejection Letter sent to the detenu	- 25/04/2022



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HCP No.594 of 2022

Govt. Holidays Falls on :

14/04/2022, 15/04/2022, 16/04/2022, 17/04/2022,
23/04/2022, 24/04/2022

Representation	Column No.7-9	Column No.12-13
No. of days	09	02
No. of Holidays	04	02
Total No. of days	05	00
Delay	05+00 = 05 days delay	

7.As regards delay in considering the representation, we have to necessarily go on a case to case basis. Considering the facts and circumstances of the case on hand and the nature of the representation that has been sent, we are of the considered view that five days delay is fatal qua the impugned detention order. To be noted, one of the determinants is that the representation is fairly simple and straight forward. However, at the risk of repetition, we reiterate that delay in considering the representation has to be considered on a case to case basis and in the instant case, we are convinced that delay in considering the representation comes to the aid of the petitioner in her campaign against the impugned detention order.



HCP No.594 of 2022

WEB COPY

8.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 11.03.2022 bearing reference BCDFGISSSV No.22/2022 made by the second respondent is set aside and the detenu Thiru.Natarajan @ Bombkai Natarajan, aged 24 years, son of Thiru.Jeeva is directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
08.02.2023

Index:Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai



HCP No.594 of 2022

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- 1.The Secretary to Government,
Prohibition & Excise Department [Home]
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
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- 3.The Superintendent of Prison,
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- 4.The Inspector of Police,
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Police Station, Chennai.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



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HCP No.594 of 2022

**M.SUNDAR, J.
and
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H.C.P.No.594 of 2022

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