



WEB COPY



HCP No.1413 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

Coram

**THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**

H.C.P.No.1413 of 2022

Malathy

W/o.Muthukrishnan @ Lion Muthuvel

... Petitioner

Vs.

1.State of Tamil Nadu,
represented by the
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 007.

4.The Assistant Commissioner of Police,
Central Crime Branch, EDF-I,
Chennai.

... Respondents



HCP No.1413 of 2022

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus seeking a direction calling for the records relating to the detention order in Memo No.194/BCDFGISSSV/2022 dated 13.07.2022 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband Muthukrishnan @ Lion Muthuvel @ Muthu @ Reddy B.M. S/o.Daniel Singaiah, aged about 44 years, the detenu, now confined at Central Prison, Puzhal, Chennai, before this Court and set the petitioner's husband at liberty.

For Petitioner : Mr.D.Gopikrishnan
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Made by **P.N.PRAKASH, J.**]

The petitioner is the wife of the detenu, Muthukrishnan @ Lion Muthuvel @ Muthu @ Reddy B.M. S/o.Daniel Singaiah, aged about 44 years. The detenu has been detained by the second respondent by his order in No.194/BCDFGISSSV/2022 dated 13.07.2022, 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.



HCP No.1413 of 2022

2. Under normal circumstances, this Court would not have taken up this petition for final disposal since the detention order is dated 13.07.2022 and the detention order passed till May'2022 is alone under consideration. However, considering the health issues of the detenu, this Court is inclined to consider the present petition.

3. We have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

4. 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.



HCP No.1413 of 2022

5. Learned Additional Public Prosecutor strongly 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.

6. The Detention Order in question was passed on 13.07.2022. The petitioner made a representation dated 14.11.2022. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 07.12.2022.

7. It is the contention of the petitioner that there was a delay of 19 days in considering the representation by the Hon'ble Minister for Home, P&E, of which 6 days were Government holidays. Hence, there was inordinate delay of 13 days in considering the representation.



HCP No.1413 of 2022

8. 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.

9. In **Sumaiya vs. The Secretary to Government (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.

10. 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.

11. In the subject case, admittedly, there is an inordinate and unexplained delay of 13 days in considering the representation by the



HCP No.1413 of 2022

Hon'ble Minister for Home, P&E. The impugned detention order is, therefore, liable to be quashed.

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.194/BCDFGISSSV/2022 dated 13.07.2022, passed by the second respondent is set aside. The detenue, viz., Muthukrishnan @ Lion Muthuvel @ Muthu @ Reddy B.M. S/o.Daniel Singaiah, aged about 44 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNP, J.] [NAV, J.]
02.01.2023

Index: Yes/No
gm



HCP No.1413 of 2022

WEB COPY To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai - 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai - 600 007.
- 4.The Assistant Commissioner of Police,
Central Crime Branch, EDF-I,
Chennai.
- 5.The Joint Secretary to Government of Tamil Nadu,
Public, Law and Order Department,
Secretariat, Chennai – 9.
- 6.The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP No.1413 of 2022

P.N.PRAKASH, J.
and
N.ANAND VENKATESH, J.

gm

H.C.P.No.1413 of 2022

02.01.2023