



H.C.P.Nos.1492, 1514 and 1515 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

Coram

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

H.C.P.Nos.1492, 1514 and 1515 of 2022

H.C.P.No.1492 of 2022

P.Priyanka ... Petitioner/ sister-in-law of the detenu

-VS-

1. Government of Tamil Nadu
rep. By its Secretary
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai – 600 009

2. Commissioner of Police
Greater Chennai Police

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

4. Inspector of Police (L & O)
F-1, Chintadripet Police Station
Chintadripet, Chennai – 600 002

... Respondents



H.C.P.Nos.1492, 1514 and 1515 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Memo No.BCDFGISSV/174/2022 dated 28.06.2022 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's brother-in-law Thiru Sanjay, son of Mohan @ Dhargah Mohan, aged 24 years, now confined in Central Prison-II, Puzhal, Chennai – 600 066 before this Court and set him at liberty.

H.C.P.No.1514 of 2022

R.Priyanka
W/o.Pradeep

... Petitioner/ wife of detenu

-VS-

1. Government of Tamilnadu
rep. By its Secretary, Home, Prohibition
and Excise (XVI) Department
Fort St. George
Chennai – 600 009
2. Commissioner of Police
Greater Chennai Police
3. Superintendent of Central Prison
Puzhal, Chennai – 600 066
4. Inspector of Police (L & O)
F-1, Chintadripet Police Station
Chintadripet, Chennai – 600 002

... Respondents



H.C.P.Nos.1492, 1514 and 1515 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Memo No.BCDFGISSV/173/2022 dated 28.06.2022 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's husband Pradeep, son of Mohan@ Dhargah Mohan, aged 26 years, now confined in Central Prison-I, Puzhal, Chennai – 600 066 before this Court and set him at liberty.

H.C.P.No.1515 of 2022

Saradha
W/o.Kannan

... Petitioner/ mother of detenu

-VS-

1. Government of Tamilnadu
rep. By its Secretary, Home, Prohibition
and Excise (XVI) Department
Fort St. George
Chennai – 600 009

2. Commissioner of Police
Greater Chennai Police

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

4. Inspector of Police (L & O)
F-1, Chintadripet Police Station
Chintadripet, Chennai – 600 002

... Respondents



H.C.P.Nos.1492, 1514 and 1515 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Memo No.BCDFGISSV/175/2022 dated 28.06.2022 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's son Thiru.Theenja Paniyaram @ Kalai @ Kalairaj, son of Kannan, aged about 28 years, now confined in Central Prison-II, Puzhal, Chennai – 600 066 before this Court and set him at liberty.

For Petitioner ..	Ms.G.Manju
(in all HCPs)	
For Respondents ..	Mr.R.Muniyapparaj
(in all HCPs)	Additional Public Prosecutor

COMMON ORDER

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

This common order will govern the captioned three 'Habeas Corpus Petitions' [hereinafter 'HCP' in singular and 'HCPs' in plural for the sake of brevity].

2. For the sake of convenience, 'H.C.P.No.1492 of 2022' shall be referred to as 'I HCP', 'H.C.P.No.1514 of 2022' shall be referred to as 'II HCP' and 'H.C.P.No.1515 of 2022' shall be referred to as 'III HCP'.



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3. Ms.G.Manju, learned counsel for petitioner and Mr.R.Muniyapparaj, learned counsel for respondents are before us.

4. It is submitted by both sides that captioned three matters turn on common factual matrix as the detenus are co-accused in the same ground case and detention orders are similar. Therefore, at the request of both sides, captioned three matters were taken up and heard out together.

5. The three impugned detention orders, all dated 28.06.2022 have been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand-Offenders, Sexual offenders, Slum-Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] *inter alia* on the premise that the petitioner is a 'GOONDA' within the meaning of Section 2(f) of Act 14 of 1982.

6. All three captioned HCPs turn on one point and that one point is, delay in considering the representation made by the detenus. In all three matters, the detenus have made representation qua impugned detention



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orders. In all 3 HCPs, representations have been received by the addressee on 29.07.2022.

7. In response to the above argument of the learned counsel for petitioner that there is delay in considering the representations, learned Additional Public Prosecutor has placed before us chronicles, the details of which are as follows:

H.C.P.No.1492 of 2022

Representation dated	—	28.07.2022
Representation received dated	—	29.07.2022
File submitted on	—	11.08.2022
Under Secretary dealt with on	—	11.08.2022
Deputy secretary dealt with on	—	11.08.2022
Minister dealt with and file received on	—	17.08.2022
Rejected letter prepared on	—	17.08.2022
Rejection letter sent to the detenu on	—	18.08.2022

Govt. Holidays falls on: 30.07.2022, 31.07.2022, 06.08.2022, 07.08.2022, 09.08.2022, 13.08.2022, 14.08.2022, 15.08.2022.

S.No	Representation	Column 6 to 7	Column 8 to 10
1	No of days	13	05
2	No of holidays	04	03
	Total delay days	09	02
Total 11 days delay			



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H.C.P.No.1514 of 2022

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1. Order sent	26.07.2022
2. Representation dated	28.07.2022
3. Representation received dated	11.08.2022
4. Case submitted on dated	11.08.2022
5. Under Secretary dealt with on	12.08.2022
6. Deputy secretary dealt with on	17.08.2022
7. Minister dealt with and his received on	17.08.2022
8. Rejected letter prepared on	18.08.2022
9. Rejection letter sent to the petitioner	

Govt Holidays falls on: 30.07.2022, 31.07.2022, 06.08.2022, 07.08.2022, 08.08.2022,
13.08.2022, 14.08.2022, 15.08.2022

S.No	Representation	Column 7 to 9	Column 12 to 13
1	No of days	13	4
2	No of holidays	9	3
	Total delay days	Total 10 days delay	

SECTION OFFICER

H.C.P.No.1515 of 2022

1. Representation dated	28.07.2022
2. Representation received dated	28.07.2022
3. Case submitted on dated	11.08.2022
4. Under Secretary dealt with on	11.08.2022
5. Deputy secretary dealt with on	12.08.2022
6. Minister dealt with and his received on	17.08.2022
7. Rejected letter prepared on	17.08.2022
8. Rejection letter sent to the petitioner	18.08.2022

Govt Holidays falls on: 30.07.2022, 31.07.2022, 06.08.2022, 07.08.2022, 08.08.2022,
13.08.2022, 14.08.2022, 15.08.2022

S.No	Representation	Column 7 to 9	Column 12 to 13
1	No of days	13	4
2	No of holidays	9	3
	Total delay days	Total 10 days delay	

SECTION OFFICER



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8. The aforementioned chronicles, as placed before us by the learned Additional Public Prosecutor makes it clear that there is unexplained delay in considering the representations. Delay in considering the representations caused infraction of the impugned detention orders as it turns on constitutional safeguard ingrained in Clause (5) of Article 22 of the Constitution of India. Therefore, we accept delay in considering the representations point and say that all three impugned detention orders are liable to be set aside.

9. In the result,

(i) H.C.P. No.1492 of 2022 is allowed, impugned detention order dated 28.06.2022 bearing reference B.C.D.F.G.I.S.S.S.V.No.174 of 2022 made by the second respondent is set aside and detenu Mr.Sanjay, aged 24 years, son of Mr.Mohan @ Dhargah Mohan, now detained in Central Prison, Puzhal is directed to be set at liberty forthwith unless required in connection with any other case/s.

(ii) H.C.P. No.1514 of 2022 is allowed and impugned detention order dated 28.06.2022 bearing reference



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B.C.D.F.G.I.S.S.S.V.No.173 of 2022 made by the second respondent

is set aside and detenu Mr.Pradeep, male, aged 26 years, son of Mr.Mohan @ Dhargah Mohan, now detained in Central Prison, Puzhal is directed to be set at liberty forthwith unless required in connection with any other case/s.

(iii) H.C.P. No.1515 of 2022 is allowed and impugned detention order dated 28.06.2022 bearing reference B.C.D.F.G.I.S.S.S.V.No.175 of 2022 made by the second respondent is set aside and detenu Mr.Theenja Paniyaram @ Kalai @ Kalairaj, male aged 28 years, son of Mr. Kannan, now detained in Central Prison, Puzhal is directed to be set at liberty forthwith unless required in connection with any other case/s.

Captioned HCPs ordered on above terms.

(M.S,J.) (M.N.K.,J.)
13.02.2023

Neutral Citation : Yes

gpa

P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal

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1. The Secretary
Secretary to Government of Tamil Nadu
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai – 600 009
2. Commissioner of Police
Greater Chennai Police
3. Superintendent of Central Prison
Puzhal, Chennai – 600 066
4. Inspector of Police (L & O)
F-1, Chintadripet Police Station
Chintadripet, Chennai – 600 002
5. The Public Prosecutor
Madras High Court
Chennai - 104



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M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.

gpa

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