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H.C.P.No.1763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.1763 of 2022

T.Rubini

.. Petitioner

Vs

- 1.The Secretary to the Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 9.
- 2.The District Collector and District Magistrate,
Chengalpattu District, Chengalpattu.
- 3.The Superintendent of Police,
Chengalpattu District, Chengalpattu.
- 4.The Inspector of Police,
Prohibition Enforcement Wing,
Madhuranthagam,
Chengalpattu District.
- 5.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of habeas corpus to call for the entire
records connected with the order of the second respondent herein in
CPT No.47/2022 dated 23.08.2022 passed against the petitioner's

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husband the detenu namely Thiyaagu, son of Arumugam, aged about 28 years as a Bootlegger who is confined at Central Prison, Puzhal, Chennai and set aside the same and consequently direct the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Murugavel
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by wife of detenu assailing a 'preventive detention order dated 23.08.2022 bearing reference CPT No.47/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

2. Impugned detention order has been made under 'The Tamil



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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 No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Bootlegger' within the meaning of Section 2(b) of Act 14 of 1982.

3. There is one adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.563 of 2022 on the file of Madhuranthagam Prohibition Enforcement Wing for alleged offences under Sections 4(1)(aaa), 4(1-A) of Tamil Nadu Prohibition Act, 1937 read with Rules 6 and 11 of Tamil Nadu Rectified Spirit Rules, 2000 (Transporting). Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.A.Murugavel, learned counsel for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned counsel, for all respondents



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decided qualitatively based on the facts, circumstances and the trajectory the representation has taken, in other words, it has to be decided on case to case basis. In the case on hand, we adopt such an approach and we find that nine days delay vitiates the impugned detention order. We hasten to make it clear that there can be no straight jacket formula in terms of number of days delay as regards this point is concerned and therefore this order will not serve as precedent in all and every case.

7. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 23.08.2022 bearing reference CPT No.47/2022 made by the second respondent is set aside and the detenu Thiru.Thiyagu, male, aged 28 years, son of Thiru.Arumugam is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S.,J.) (M.N.K.,J.)
27.03.2023

Index : Yes
Neutral Citation : Yes
mmi

P.S: Registry to forthwith communicate this order to Jail

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authorities in Central Prison,Puzhal, Chennai.

To

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- 5.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 6.The Public Prosecutor,
High Court, Madras.



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

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