



H.C.P(MD)No.4 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.4 of 2023

M.Mahadevi

.. Petitioner

vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

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

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records connected with the detention order passed in BCDFGISSSV.No.93/2022 dated 14.12.2022 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, the petitioner's



husband, namely, Mohan, S/o.Mani, aged about 30 years, now detained at the Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Mohan, S/o.Mani, aged about 30 years. The detenu has been detained by the second respondent by order in BCDFGISSSV.No.93/2022 dated 14.12.2022, holding him to be a 'Bootlegger', as contemplated under Section 2(b) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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



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3. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. The learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 09.11.2022, the detention order was passed only on 14.12.2022 i.e., after a considerable delay of nearly thirty five days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor strongly opposed this petition by filing counter.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 09.11.2022, the order of detention came to be passed only on 14.12.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

6. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the



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delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV.No.93/2022 dated 14.12.2022, passed by the second respondent is set aside. The detenu, viz., Mohan, S/o.Mani, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R., J.)

(M.N.K., J.)

25.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

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- 1.The Additional Chief Secretary to Government,
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- 2.The District Collector and District Magistrate,
Madurai District, Madurai.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary,
Public (Law and Order) Department,
Fort St.George, Chennai.



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