



H.C.P(MD)No.57 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

CORAM :

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

H.C.P(MD)No.57 of 2023

P.Aishwarya

.. Petitioner

vs.

1.State of Tamil Nadu,  
Rep by its Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Chennai - 9.

2.The District Collector / District Magistrate,  
Sivagangai District, Sivagangai.

3.The Superintendent,  
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 records pertaining to the proceedings of the second respondent in Cr.M.P.No.50/Goonda/2022 dated 29.11.2022 and quash the same and set the petitioner's husband, by name,



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Palani @ Palanisamy, S/o.Kandasamy, aged about 34 years at liberty from Central Prison, Madurai.

For Petitioner : Mr.C.Prithiviraj

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 father of the detenu viz., Palani @ Palanisamy, S/o.Kandasamy, aged about 34 years. The detenu has been detained by the second respondent by order in Cr.M.P.No.50/Goonda/2022 dated 29.11.2022, 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.

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.



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 19.10.2022, the detention order was passed only on 29.11.2022 i.e., after a considerable delay of more than forty days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor would submit that on completion of investigation, charge sheet has been filed in P.R.C.No.3 of 2023 and is pending before the learned Judicial Magistrate No.I, Thiruppuvanam.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 19.10.2022, the order of detention came to be passed only on 29.11.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.



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6. We have gone through the entire materials placed on record. There

is no satisfactory explanation offered by the Detaining Authority for the 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 Cr.M.P.No.50/Goonda/2022 dated 29.11.2022, passed by the second respondent is set aside. The detenu, viz., Palani @ Palanisamy, S/o.Kandasamy, aged about 34 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.)

21.07.2023

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

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To

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- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Chennai - 9.
- 2.The District Collector / District Magistrate,  
Sivagangai District, Sivagangai.
- 3.The Superintendent,  
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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M.S.RAMESH, J.  
and  
M.NIRMAL KUMAR, J.

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