



HCP(MD)No.146 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.146 of 2023

Abimaniyu @ Athiban

.. Petitioner / Detenu

Vs.

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

2.The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Theni District, Theni

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the impugned detention order of the 2nd respondent in Detention Order No. 110/2022, dated 28.12.2022 and quash the same and direct the respondents



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1 to 3 to produce the body or person of the detenu by name Abimaniyu @ Athiban, S/o.Tamilselvan, aged about 29 years, now confining as “Goonda” at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the detenu viz., Abimaniyu @ Athiban, S/o.Tamilselvan, aged about 29 years. The detenu has been detained by the second respondent by his order in Detention Order No.110/2022, dated 28.12.2022 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.



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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. 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 28.12.2022 i.e., after a considerable delay of more than 40 days. Therefore, the detention order has to be set aside.

4.The learned Additional Public Prosecutor while objecting this petition submitted that on completion of investigation, charge sheet has been filed in S.C.No.78 of 2023, the same is pending before the Sessions Court, Theni.

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 28.12.2022 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 No.110/2022, dated 28.12.2022 passed by the second respondent is set aside. The detenu, viz., Abimaniyu @ Athiban, S/o.Tamilselvan, aged about 29 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.)
26.07.2023

NCC : Yes / No
Index : Yes / No

PNM/RR



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To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Joint Secretary
Public (Law and Order)
Secretariat, Chennai.

3. The District Collector and District Magistrate,
Office of the Collector and District Magistrate,
Theni District, Theni

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

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
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