



H.C.P(MD)No.158 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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.158 of 2023

Sakthivel

.. Petitioner

VS.

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

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

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

... 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 of the second respondent in CrI.M.P.No.47 of 2022 dated 28.11.2022 and quash the same and direct the respondents to produce the detenu or body of the detenu namely Sakthivel, S/o.Marikkani, aged



about 24 years, detained as 'Goonda' in 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 detenu viz., Sakthivel, S/o.Marikkani, aged about 24 years. The detenu has been detained by the second respondent by order in CrI.M.P.No.47 of 2022 dated 28.11.2022, 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 18.10.2022, the detention order was passed only on 28.11.2022 i.e., after a considerable delay of more than forty days. Therefore, the detention order has to be set aside.

4. Though counter has not been filed, the learned Additional Public Prosecutor strongly opposed this petition.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 18.10.2022, the order of detention came to be passed only on 28.11.2022 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 delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in CrI.M.P.No.47 of 2022 dated 28.11.2022, passed by the second respondent is set aside. The detenu, viz., Sakthivel, S/o.Marikkani, aged about 24 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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Virudhunagar.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 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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and
M.NIRMAL KUMAR, J.

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