



HCP(MD)No.295 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.07.2023

CORAM

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

H.C.P.(MD)No.295 of 2023

Vijay

.. Petitioner / Brother of the Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
O/o.the Commissioner of Police,
Madurai City,
Madurai.

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

4.The Inspector of Police,
Sellur Police Station,
Madurai City.

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order in No.87/BCDFGISSSV/2022 dated 14.12.2022 on the file of the Respondent No.2 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's brother namely Vinothkumar @ Vinoth aged about 22 years son of Ganesan @ Naaipodu Ganesan, now confined at Central Prison, Madurai before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu viz., Vinothkumar @ Vinoth, S/o.Ganesan @ Naaibodu Ganesan, aged about 22 years. The detenu has been detained by the second respondent by his order in No.87/BCDFGISSSV/2022 dated 14.12.2022 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.



HCP(MD)No.295 of 2023

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 16.09.2022, the detention order was passed only on 14.12.2022, i.e., after a considerable delay of nearly three months. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. It is further submitted that investigation has been completed in this case and final report has been filed in S.C.No.324/2023 and the same is pending before the Principal District Court, Madurai.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 16.09.2022, the order of detention came to be passed



HCP(MD)No.295 of 2023

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 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.87/BCDFGISSSV/2022 dated 14.12.2022 passed by the second respondent is set aside. The detenu, viz., Vinothkumar @ Vinoth, S/o.Ganesan @ Naaibodu Ganesan, aged about 22 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
Lm/mbi



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Sellur Police Station,
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5. The Joint Secretary to Government,
Public (Law and Order),
Fort St.George,
Chennai.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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HCP(MD)No.295 of 2023

M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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