



HCP(MD)No.303 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.08.2023

CORAM

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

H.C.P.(MD)No.303 of 2023

M.Arockia Mary

.. Petitioner /Mother of the Detenu

Vs.

1.State of Tamil Nadu

Represented by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: 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 passed in P.D.No.03 of 2023 dated 15.02.2023 on the



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file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son i.e., Sabu Mon, aged about 37 years, S/o.Maria Mammanse @ Mammanse @ Mariadhas, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Sabu Mon, aged about 37 years, S/o.Maria Mammanse @ Mammanse @ Mariadhas. The detenu has been detained by the second respondent by his order in P.D.No.03/2023 dated 15.02.2023 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. The learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 31.12.2022, the detention order was passed only on 15.02.2023, i.e., after a considerable delay of 46 days. 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 C.C.No.97 of 2023 and the same is pending before the Judicial Magistrate Court, Eraniel.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 31.12.2022, the order of detention came to be passed only on 15.02.2023 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 P.D.No.03/2023 dated 15.02.2023 passed by the second respondent is set aside. The detenu, viz., Sabu Mon, S/o.Maria Mammanse @ Mammanse @ Mariadhas, aged about 37 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.)
09.08.2023

NCC : Yes / No
Index : Yes / No
Lm



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



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and
M.NIRMAL KUMAR,J.

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