



HCP(MD)No.317 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.07.2023

CORAM

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

H.C.P.(MD)No.317 of 2023

Balamurugan

.. Petitioner / Detenu

Vs.

- 1.The State of Tamil Nadu,
The Additional Chief Secretary to Government
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Sivagangai District, Sivagangai.
- 3.The Superintendent of Prisons,
Central Prison,
Madurai District.

.. Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records connected with the detention order of the respondent No.2 in Cr.M.P.No. 1/Goonda/2023, dated 06.02.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name



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Balamurugan, S/o.Boominathan, aged about 25 years, now confining as “Goonda” at Madurai Central Prison, Madurai, 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., Balamurugan, S/o.Boominathan, aged about 25 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.1/Goonda/2023, dated 06.02.2023 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. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 01.12.2022, the detention order was passed only on 06.02.2023 i.e., after a considerable delay of nearly two months. 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.135 of 2023 and the same is pending before the Additional District Court, Sivagangai.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 01.12.2022, the order of detention came to be passed only on 06.02.2023 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



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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.1/Goonda/2023, dated 06.02.2023 passed by the second respondent is set aside. The detenu, viz., Balamurugan, S/o.Boominathan, aged about 25 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.)
31.07.2023

NCC : Yes / No
Internet : Yes

PNM/RR



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To

1. The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The Joint Secretary,
Public (Law and Order),
Secretariat, Chennai.
3. The District Collector and District Magistrate,
Sivagangai District, Sivagangai.
4. The Superintendent of Prisons,
Central Prison,
Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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

PNM/RR

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