



HCP(MD)No.404 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 20.07.2023

CORAM

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

H.C.P.(MD)No.404 of 2023

Sakthivel

... Petitioner / Detenu

Vs.

1.The Additional Chief Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai – 9.

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

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

.. Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2<sup>nd</sup> respondent in



HCP(MD)No.404 of 2023

No.114/2022, dated 15.11.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Sakthivel, S/o.Murugesan, aged about 29 years now detained at Madurai Central Prison, before this Court and set him at liberty.

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., Sakthivel, S/o.Murugesan, aged about 29 years. The detenu has been detained by the second respondent by his order in No.114/2022, dated 15.11.2022, 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.



*HCP(MD)No.404 of 2023*

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 27.08.2022, the detention order was passed only on 15.11.2022 i.e., after a considerable delay of more than 70 days. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 27.08.2022, the order of detention came to be passed only on 15.11.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

5. 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.



HCP(MD)No.404 of 2023

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in No.114/2022, dated 15.11.2022 passed by the second respondent is set aside. The detenu, viz., Sakthivel, S/o.Murugesan, 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.)**  
**20.07.2023**

NCC : Yes / No

Index : Yes / No

Yuva / RR

To

- 1.The Additional Chief Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai – 9.
- 2.The Joint Secretary to Government,  
Public Law and Order,  
Fort St.George, Chennai-600 009.
- 3.The District Magistrate and District Collector,  
Office of the District Magistrate and District Collector,

Page 4 of 6



*HCP(MD)No.404 of 2023*

Dindigul District, Dindigul.

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

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



WEB COPY



*HCP(MD)No.404 of 2023*

**M.S.RAMESH, J.  
AND  
M.NIRMAL KUMAR, J.**

Yuva / RR

H.C.P.(MD)No.404 of 2023

20.07.2023