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HCP(MD)No.424 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2023

CORAM

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

H.C.P.(MD)No.424 of 2023

E.Devasahayam

.. Petitioner / Father of the Detenu

Vs.

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

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.

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

.. 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 impugned detention order of the Respondent No.2 in detention order



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No.13/BCDFGISSSV/2023 dated 13.03.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name Akilan Karthick @ Akilan, Son of Devasahayam, aged about 26 years, now detained in Madurai Central Prison before this Court and set him at liberty.

For Petitioner : Mr.I.Sabeer Mohamed

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Akilan Karthick @ Akilan, aged about 26 years, S/o.Devasahayam. The detenu has been detained by the second respondent by his order in No.13/BCDFGISSSV/2023 dated 13.03.2023 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 23.12.2022, the detention order was passed only on 13.03.2023, i.e., after a considerable delay of 80 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 S.C.No.319/2023 and the same is pending before the I Additional District Court, Madurai.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 23.12.2022, the order of detention came to be passed only on 13.03.2023 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 No.13/BCDFGISSSV/2023 dated 13.03.2023 passed by the second respondent is set aside. The detenu, viz., Akilan Karthick @ Akilan, S/o.Devasahayam, aged about 26 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.)
20.09.2023

NCC : Yes / No
Index : Yes / No
Lm



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3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
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,
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and
M.NIRMAL KUMAR,J.

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