



HCP(MD)No.430 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.09.2023

CORAM

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

H.C.P.(MD)No.430 of 2023

Karpagavalli

.. Petitioner /sister
of the detenu

Vs.

1.The Government of Tamil Nadu
rep. by its Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.

2.The District Collector and District Magistrate
Nagapattinam District, Nagapattinam.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli 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 order
made in COC No.12/2023 dated 07.03.2023 on the file of the 2nd respondent



HCP(MD)No.430 of 2023

and quash the same and consequently direct the respondents to produce the petitioner's brother namely Kullan @ Muthupandi, S/o.Muniyasamy, aged about 25 years, who is now detained as a detenu at Central Prison, Tiruchirappalli on his corpus or body before this Court and set him at liberty forthwith.

For Petitioner : Mr.J.Sankarapandian

For Respondents : Mr.A.Thiruvadikkumar
Additional Public Prosecutor

ORDER

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

The petitioner is the sister of the detenu viz., Kullan @ Muthupandi, aged about 25 years S/o.Muniyasamy. The detenu has been detained by the second respondent by his order in COC No.12/2023 dated 07.03.2023 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.



HCP(MD)No.430 of 2023

WEB COPY

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. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 20.12.2022, the detention order was passed only on 07.03.2023 i.e., after a considerable delay of more than 70 days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor strongly objected this petition. He further submitted that on completion of investigation, charge sheet has been filed in S.C.No.51/2023 and the same is pending before the Principal District Judge, Nagapattinam.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 20.12.2022, the order of detention came to be passed



HCP(MD)No.430 of 2023

only on 07.03.2023 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 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 COC No.11/2023 dated 07.03.2023 passed by the second respondent is set aside. The detenu, viz., Kullan @ Muthupandi S/o.Muniyasamy, 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.)
08.09.2023

NCC : Yes / No
Internet : Yes
RR



HCP(MD)No.430 of 2023

To

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

2. The Joint Secretary
Public Law and Order
Secretariat, Chennai.

3. The District Collector and District Magistrate
Nagapattinam District, Nagapattinam.

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

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



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HCP(MD)No.430 of 2023

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

RR

H.C.P.(MD)No.430 of 2023

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