



HCP(MD)No.488 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.09.2023

CORAM

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

H.C.P.(MD)No.488 of 2023

Krishnammal

.. Petitioner/mother of
the detenu

Vs.

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

2.The District Collector/District Magistrate
District Collectorate
Dindigul District

3.The Superintendent of Prison,
Central Prison, Madurai,
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 entire records connected with the detention order in Detention order No.05/2023 dated 17.02.2023 passed by the respondent No.2 on petitioner's son namely,



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Selvakumar, S/o.Rajagopal, male aged 48/2023, has been detained and branded as Goonda in exercise of the powers conferred by Section 3(1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Cyber law offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act 1982 and confined at Central Prison, Madurai District and set him at liberty forthwith.

For Petitioner : Mr.K.Gunasekara Pandian

For Respondents : Mr.A.Thiruvadikkumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Selvakumar, aged about 48 years S/o.Rajagopal. The detenu has been detained by the second respondent by his order in Detention order No.05/2023 dated 17.02.2023 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 08.01.2023, the detention order was passed only on 17.02.2023 i.e., after a considerable delay of nearly 40 days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor strongly objected this petition.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 08.01.2023, the order of detention came to be passed only on 17.02.2023 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 the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention order No.05/2023 dated 17.02.2023 passed by the second respondent is set aside. The detenu, viz., Selvakumar S/o.Rajagopal, aged about 48 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.)
25.09.2023

NCC :Yes / No

Internet : Yes

RR

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/District Magistrate
District Collectorate, Dindigul District

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

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



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and
M.NIRMAL KUMAR,J.

RR

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