



HCP(MD)No.540 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.07.2023

CORAM

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

H.C.P.(MD)No.540 of 2023

Chinnasamy

.. Petitioner / Father of
Detenu

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Magistrate and District Collector,
Dindigul, Dindigul District.
- 3.The Superintendent of Prison,
Central Prison, Madurai.
- 4.The Inspector of Police,
Natham Police Station,
Dindigul District.

.. Respondents



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PRAAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the detention order passed by the 2nd respondent in Detention Order No. 01/2023, dated 10.01.2023, and to quash the same and direct the respondents to produce the body or person of the detenu, Prabakaran @ Chellam. S/o.Chinnasamy, aged about 30 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner : Mr.S.Mahendrapathy

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 detenu viz., Prabakaran @ Chellam. S/o.Chinnasamy, aged about 30 years. The detenu has been detained by the second respondent by his order in D.O.No.01/2023, dated 10.01.2023 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.



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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 30.11.2022, the detention order was passed only on 10.01.2023 i.e., after a considerable delay of 40 days. Therefore, the detention order has to be set aside.

4. No counter affidavit has been filed in this matter.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 30.11.2022, the order of detention came to be passed only on 10.01.2023 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 D.O.No.01/2023, dated 10.01.2023 passed by the second respondent is set aside. The detenu, viz., Prabakaran @ Chellam. S/o.Chinnasamy, aged about 30 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.)
26.07.2023

NCC : Yes / No
Index : Yes / No

PNM/RR



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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,
Office of the District Magistrate and District Collector,
Dindigul, Dindigul District.
4. The Superintendent of Prison,
Central Prison, Madurai.
5. The Inspector of Police,
Natham Police Station,
Dindigul District
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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