



HCP(MD)No.617 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.09.2023

CORAM

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

H.C.P.(MD)No.617 of 2023

Rahamathullah

.. Petitioner /detenu

Vs.

1.The Chief Secretary to Government
State of Tamilnadu
Home, Prohibition and Excise Department
Secretariat
Fort St. George, Chennai 600 009.

2.The Commissioner of Police,
Office of the Commissioner
Trichy.

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

.. 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 of the respondent No.2 in C.No.



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12/Detention/CPO/TC/2023 dated 09.03.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name Rahamathullah alias Joswa son of Mohammed Yunish, aged about 22 years, now detained as Goonda at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikkumar
Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz., Rahamathullah @ Joswa, aged about 22 years S/o.Mohammed Yunish. The detenu has been detained by the second respondent by his order in C.No.12/Detention/CPO/TC/2023 dated 09.03.2023 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.



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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 25.01.2023, the detention order was passed only on 09.03.2023 i.e., after a considerable delay of more than 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 25.01.2023, the order of detention came to be passed only on 09.03.2023 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 C.No.12/Detention/CPO/TC/2023 dated 09.03.2023 passed by the second respondent is set aside. The detenu, viz., Rahamathullah @ Joswa S/o.Mohammed Yunish, aged about 22 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.)
19.09.2023

NCC : Yes / No
Internet : Yes
RR



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To

- 1.The Chief Secretary to Government
State of Tamilnadu
Home, Prohibition and Excise Department
Secretariat
Fort St. George, Chennai 600 009.
- 2.The Joint Secretary
Public Law and Order
Secretariat, Chennai.
- 3.The Commissioner of Police,
Office of the Commissioner
Trichy.
- 4.The Superintendent of Prison,
Tiruchirappalli Central Prison,
Tiruchirappalli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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

RR

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