



HCP(MD)No.615 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.08.2023

CORAM

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

H.C.P.(MD)No.615 of 2023

K.Mahali

.. Petitioner /Mother of the Detenu

Vs.

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

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

3.The Superintendent of Central 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 records on the file of the



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second respondent in No.07/BCDFGISSSV/2023 dated 15.02.2023 and set-aside the order of detention passed therein and directing the respondents to produce the detenu namely Prabakaran, Male, aged 29 years, S/o.Ganesan before this Court, now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Prabakaran, aged about 29 years, S/o.Ganesan. The detenu has been detained by the second respondent by his order in No.07/BCDFGISSSV/2023 dated 15.02.2023 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.



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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. The learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 14.12.2022, the detention order was passed only on 15.02.2023, i.e., after a considerable delay of two months. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 14.12.2022, the order of detention came to be passed only on 15.02.2023 and hence, there is an abnormal delay in passing the order of detention, which caused prejudice to the interest of the detenu.

5. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the



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delay in passing the order of detention. Hence, the impugned order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.07/BCDFGISSSV/2023 dated 15.02.2023 passed by the second respondent is set aside. The detenu, viz., Prabakaran, S/o.Ganesan, aged about 29 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.)
09.08.2023

NCC : Yes / No
Index : Yes / No
Lm

To

1.The Principal Secretary to Government,
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Home, Prohibition and Excise IX,
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George Fort,
Chennai – 600 009.

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



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3. The Superintendent of Central 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,
Madurai.



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and
M.NIRMAL KUMAR,J.

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