



HCP(MD)No.751 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.07.2023

CORAM

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

H.C.P.(MD)No.751 of 2023

S.Manaji

.. Petitioner / Son of the Detenu

Vs.

- 1.The State of Tamil Nadu
Rep. by Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Magistrate and District Collector,
Theni District,
Theni.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Inspector of Police,
Chinnamanur Police Station,
Theni District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent in Detention Order No. 106/2022, dated 02.12.2022 and quash the same and direct the respondents to produce the body or person of the detenu, Senthilkumar, S/o.Subburaj, aged about 45 years, before this Court and set him at liberty, now detained at Central Prion, Madurai.

For Petitioner : Mr.S.Arokiya Selva Ramesh

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the son of the detenu viz., Senthilkumar, S/o.Subburaj, aged about 45 years. The detenu has been detained by the second respondent by his order in Detention Order No.106/2022, dated 02.12.2022, 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 09.10.2022, the detention order was passed only on 02.12.2022 i.e., after a considerable delay of nearly 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 09.10.2022, the order of detention came to be passed only on 02.12.2022 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 Detention Order No.106 of 2022, dated 02.12.2022, passed by the second respondent is set aside. The detenu, namely, Senthilkumar, son of Subburaj, aged about 45 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.)
24.07.2023

NCC : Yes / No
Index : Yes / No

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To

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Madurai Bench of Madras High Court,
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