



HCP(MD)No.758 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

H.C.P.(MD)No.758 of 2023

Anathanayagi

.. Petitioner /mother
of the detenu

Vs.

- 1.The Additional Secretary to Government
Home Prohibition and Excise Department, Chennai-600 009.
- 2.The District Collector and District Magistrate
Trichy District, Trichy.
- 3.The Superintendent of Prison,
Central Prison, Tiruchirappalli
- 4.The Inspector of Police
Thiruverumbur Police Station,
Trichy District

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records pertaining to the order of detention passed by the 2nd respondent vide his proceedings in Cr.M.P.No. 58/2022 dated 12.10.2022 and quash the same and consequently set the detenu Sundaraj, S/o.Srinivasan, male, aged 35 years, who is presently confined in Central Prison, Trichy at liberty.



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For Petitioner : Mr.M.Pitchai Muthu
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., Sundaraj, aged about 35 years, S/o.Srinivasan. The detenu has been detained by the second respondent by his order in detention order in Cr.M.P.No.58/2022 dated 12.10.2022 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.

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



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detenu was arrested on 25.08.2022, the detention order was passed only on 12.10.2022 i.e., after a considerable delay of more than 40 days. Therefore, the detention order has to be set aside.

4.It is submitted by the learned Additional Public Prosecutor that on completion of investigation, charge sheet has been filed in SC No.173/2023 and the same is pending before the II Additional District Judge, Trichy.

5.As seen from the grounds of detention, it is clear that though the detenu was arrested on 25.08.2022, the order of detention came to be passed only on 12.10.2022 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.

7. In the result, the Habeas Corpus Petition is allowed and the order



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of detention in Cr.M.P.No.58/2022 dated 12.10.2022 passed by the second respondent is set aside. The detenu, viz., Sundaraj S/o.Srinivasan, aged about 35 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.)
14.07.2023

NCC : Yes/No

Internet : Yes

RR

To

- 1.The Additional Secretary to Government
Home Prohibition and Excise Department,
Chennai-600 009.
- 2.The District Collector and District Magistrate
Trichy District
Trichy.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli
- 4.The Inspector of Police
Thiruverumbur Police Station,
Trichy District
- 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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