



HCP(MD)No.754 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

CORAM

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

H.C.P.(MD)No.754 of 2023

Maheshwari

... Petitioner / Mother of the Detenu

Vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The District Collector and District Magistrate,
Trichy District, Trichy.

3.The Superintendent,
Central Prison, Trichy.

4.The Inspector of Police,
Thiruverumbur Police Station,
Trichy District.

.. Respondents

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



HCP(MD)No.754 of 2023

detention order passed by the 2nd respondent in Cr.M.P.No.60/2022, dated 31.10.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Thalapathy, S/o.(Late) Pitchairathinam, aged about 35 years now detained at Central Prison, Trichy before this Court and set him at liberty.

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., Thalapathy, S/o. (Late) Pitchairathinam, aged about 35 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.60/2022, dated 31.10.2022, 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.



HCP(MD)No.754 of 2023

WEB COPY

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 22.08.2022, the detention order was passed only on 31.10.2022 i.e., after a considerable delay of more than 60 days. 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 22.08.2022, the order of detention came to be passed only on 31.10.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.



HCP(MD)No.754 of 2023

WEB COPY

5.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.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.60/2022, dated 31.10.2022 passed by the second respondent is set aside. The detenu, viz., Thalapathy, S/o.(Late) Pitchairathinam, 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.)
18.07.2023

NCC : Yes / No
Index : Yes / No

Yuva



HCP(MD)No.754 of 2023

WEB COPY

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Trichy District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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WEB COPY



HCP(MD)No.754 of 2023

**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

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H.C.P.(MD)No.754 of 2023

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