



HCP(MD)No.768 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 17.08.2023

CORAM

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

H.C.P.(MD)No.768 of 2023

Krishnan

.. Petitioner /Father of Detenu

Vs.

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

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

3.The Inspector of Police,
Dindigul Town West Police Station,
Dindigul.
(Crime No.568 of 2022)

4.The Superintendent of Prison,
Central Prison,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, directing the respondents to produce the



HCP(MD)No.768 of 2023

person or body of the detenu namely 'Ajay Kannan' aged about 21/2022 years son of Krishnan before this Court who is now detained in the Central Prison, Madurai in pursuant to the detention order passed by the second respondent in Detention Order No.11/2023 dated 22.02.2023 and to call for the records and quash the same and release the detenu at liberty forthwith.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the father of the detenu viz., Ajay Kannan, aged about 21 years, S/o.Krishnan. The detenu has been detained by the second respondent by his order in Detention Order No.11/2023 dated 22.02.2023 holding him to be a "Drug Offender", as contemplated under Section 2(e) 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.



HCP(MD)No.768 of 2023

WEB COPY

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 31.12.2022, the detention order was passed only on 22.02.2023, i.e., after a considerable delay of 53 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 31.12.2022, the order of detention came to be passed only on 22.02.2023 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 delay in passing the order of detention. Hence, the impugned order of detention is liable to be set aside.



HCP(MD)No.768 of 2023

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.11/2023 dated 22.02.2023 passed by the second respondent is set aside. The detenu, viz., Ajay Kannan, S/o.Krishnan, aged about 21 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.)
17.08.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George, Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Inspector of Police,
Dindigul Town West Police Station,
Dindigul.
- 4.The Superintendent of Prison,
Central Prison,
Madurai.



HCP(MD)No.768 of 2023

WEB COPY

5.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



HCP(MD)No.768 of 2023

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

Lm

H.C.P.(MD)No.768 of 2023

17.08.2023