



HCP(MD)No.785 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2023

CORAM

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

H.C.P.(MD)No.785 of 2023

Jensha Beevi

.. Petitioner / mother
of the Detenu

Vs.

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

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

3.The Inspector of Police,
Manamelkudi Police Station
Pudukottai District

4.The Superintendent of Prison,
Central Prison,Trichy

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the records pertaining to the order

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of detention passed by the 2nd respondent in proceedings P.D.O.No.02/2023 dated 09.01.2023 and quash the same as illegal and produce the detenu namely Ibrahimsha @ Ibrahimsha S/o.Noor Mohamed, aged about 40 years, now he is confined in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.T.Leninkumar

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., Ibrahimsha @ Ibrahimsha, S/o.Noor Mohamed aged about 40 years. The detenu has been detained by the second respondent by his order in P.D.O.No.02/2023 dated 09.01.2023 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.

2. We have heard the learned counsel appearing for the petitioner and



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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 19.11.2022, the detention order was passed only on 09.01.2023 i.e., after a considerable delay of more than 40 days. Therefore, the detention order has to be set aside.

4. Counter affidavit has not been filed. The learned Additional Public Prosecutor strongly objected this petition and submitted that on completion of investigation, charge sheet has been filed in P.R.C.No.2/2023 and the same is pending before the Judicial Magistrate, Aranthangi.

5.As seen from the grounds of detention, it is clear that though the detenu was arrested on 19.11.2022, the order of detention came to be passed



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only on 09.01.2023 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 of detention in P.D.O.No.02/2023 dated 09.01.2023 passed by the second respondent is set aside. The detenu, viz., Ibramsha @ Ibrahimsha S/o.Noor Mohamed, aged about 40 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.)
26.07.2023

NCC : Yes / No
Index : Yes / No
RR



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To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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2. The Joint Secretary
Public (Law and Order)
Secretariat, Chennai.

3. The District Magistrate and District Collector,
Pudukottai, Pudukottai District

4. The Inspector of Police,
Manamelkudi Police Station
Pudukottai District

5. The Superintendent of Prison,
Central Prison, Trichy

6. 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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