



HCP(MD)No.994 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.08.2023

CORAM

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

H.C.P.(MD)No.994 of 2023
and
Crl.M.P.(MD).No.10802 of 2023

G.Velmurugan

.. Petitioner / Brother of the Detenu

Vs.

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

.. 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 second respondent in B.CD.F.G.I.S.S.S.V.No. 91/2022 dated 12.12.2022 and quash the same and direct the respondents to produce the detenu Prabhu @ Moongil, S/o.Ganesan, Male aged 34, who is detained at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.M.Karunanithi

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu viz., Prabu @ Moongil, aged about 33 years, S/o.Ganesan. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.S.V.No.91/2022 dated 12.12.2022 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 27.09.2022, the detention order was passed only on 12.12.2022, i.e., after a considerable delay of 76 days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition. It is further submitted that investigation has been completed in this case and final report has been filed in S.C.No.453/2022 and the same is pending before the IV Additional District Court, Madurai.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 27.09.2022, the order of detention came to be passed



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only on 12.12.2022 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 of detention in B.C.D.F.G.I.S.S.S.V.No.91/2022 dated 12.12.2022 passed by the second respondent is set aside. The detenu, viz., Prabu @ Moongil, S/o.Ganesan, aged about 33 years, is directed to be released forthwith unless his detention is required in connection with any other case. Consequently, CrI.M.P.(MD).No.10802 of 2023 stands closed.

(M.S.R.,J.) (M.N.K.,J.)
28.08.2023

NCC : Yes / No
Index : Yes / No
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3. The Superintendent of Prison,
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4. The Inspector of Police,
Thirumangalam Town Police Station,
Madurai.
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.



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and
M.NIRMAL KUMAR,J.

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