



HCP(MD)No.1421 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.07.2023

CORAM

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

H.C.P.(MD)No.1421 of 2022

Muthulakshmi .. Petitioner /Mother of the Detenu
Vs.

1.State of Tamil Nadu represented by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the entire records connected with the detention order passed in M.H.S Confdl.No.116 of 2022 dated 07.07.2022 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu



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namely the petitioner's son i.e., Vanumamalai alias Suresh, aged about 39 years, S/o.Murugan alias Murugiah Pandian, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

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., Vanumamalai alias Suresh, aged about 39 years, S/o.Murugan alias Murugiah Pandian. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.116/2022 dated 07.07.2022 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.



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were duly received. Thereafter, the Government considered the matter and passed the order rejecting the petitioner's representation on 13.09.2022.

6. It is the contention of the petitioner that there was a delay of 10 days in submitting the remarks by the Detaining Authority, of which 4 days were Government holidays and hence there was an inordinate delay of 6 days in submitting the remarks. It is the further contention of the petitioner there was a delay of 6 days, in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which, 1 day was a Government Holiday and hence, there was inordinate delay of 5 days in considering the representation.

7. In **Rekha vs. State of Tamil Nadu (2011 (5) SCC 244)**, the Honourable Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.



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8. In **Sumaiya vs. The Secretary to Government (2007 (2) MWN (Cr.) 145)**, a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In **Tara Chand vs. State of Rajasthan and others**, reported in **1980 (2) SCC 321**, the Honourable Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 6 days in submitting the remarks by the Detaining Authority and unexplained delay of 5 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.116/2022 dated 07.07.2022 passed by the second respondent is set aside. The detenu, viz., Vanumamalai alias Suresh,



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aged about 39 years, S/o.Murugan alias Murugiah Pandian, 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.)
03.07.2023

NCC : Yes / No
Index : Yes / No
Lm/RR

To

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

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