



HCP(MD)No.1458 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2023

CORAM

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

H.C.P.(MD)No.1458 of 2022

Gandhi

.. Petitioner/father of the Detenu

Vs.

1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
O/o. Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records relating to the impugned order of detention passed by the second respondent in C.No. 112/Detention/C.P.O./T.C./2022, dated 22.08.2022, set aside the same and consequently, direct the respondents to produce the detenu Santhanu, son of



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Gandhi, aged about 34 years [petitioner's son], now confined at Central Prison, Tiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Saravanakumar

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., Santhanu, S/o. Gandhi, aged about 34 years. The detenu has been detained by the second respondent by his order in C.No.112/Detention/C.P.O./T.C./2022, dated 22.08.2022, 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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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 23.06.2022, the detention order was passed only on 22.08.2022, i.e., after a considerable delay of 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 23.06.2022, the order of detention came to be passed only on 22.08.2022 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.112/Detention/C.P.O./T.C./2022, dated 22.08.2022,



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passed by the second respondent is set aside. The detenu, viz., Santhanu, S/o.Gandhi, aged about 34 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.)
06.07.2023

NCC : Yes / No
Index : Yes / No
smn2/Lm

To

- 1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
O/o. Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 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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