



HCP(MD)No.1031 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 29.08.2023

CORAM

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

H.C.P.(MD)No.1031 of 2023

Selvi

.. Petitioner / Mother of the Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.

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

3.The Superintendent of Prison,
Central Prison,
Madurai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records in pursuant to the proceedings of the second respondent in Detention Order No.9/2023 dated 22.02.2023 quash the same and consequently direct the respondents to produce the detenu, namely Sureshkumar, S/o.Kesavamoorthy, aged 24 years who is now detained in Central Prison, Madurai before this Court and set him at liberty.



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For Petitioner : Mr.M.Chandrabose
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The present Habeas Corpus Petition came up for admission on 16.08.2023 and we had granted six weeks' time for the learned Additional Public Prosecutor to file his counter affidavit. Thereafter, it was brought to our notice that the detention orders in the case of detenus, who were detained under orders passed after the detenu herein was detained under Act 14, have been quashed by this Court. In this background, we are of the view that the present Habeas Corpus Petition can be taken out of turn and accordingly, the matter is listed before us today under the caption "for being spoken to".

2. The petitioner is the mother of the detenu viz., Sureshkumar, aged about 24 years, S/o.Kesavamoorthi. The detenu has been detained by the second respondent by his order in Detention Order No.09/2023 dated 22.02.2023 holding him to be a "Drug Offender", as contemplated under



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Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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. 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 charge sheet has been filed in TNMDO.50027062023/CC/2646/2023 dated 22.06.2023 and the same is pending before the Special Court for EC Act and NDPS Act cases, Madurai.

5. 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



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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.

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 Detention Order No.09/2023 dated 22.02.2023 passed by the second respondent is set aside. The detenu, viz., Sureshkumar, S/o.Kesavamoorthi, aged about 24 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.)
29.08.2023

NCC : Yes / No
Index : Yes / No
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- 2.The District Collector and District Magistrate,
Dindigul,
Dindigul District.
- 3.The Superintendent of Prison,
Central Prison,
Madurai District.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai.
- 5.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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