



WEB COPY



HCP(MD)No.1053 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2023

CORAM

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

H.C.P.(MD)No.1053 of 2023

G.Vivedha

.. Petitioner / Wife of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The District Magistrate and District Collector,
Karur Collector Office,
Karur District.

3.The Superintendent,
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 in detention passed in Cr.M.P.No.25/2022 dated 15.12.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband



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namely Gowtham S/o.Sivakumar male aged 28 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.NA.Manimaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Gowtham, aged about 27 years, S/o.Sivakumar. The detenu has been detained by the second respondent by his order in Cr.M.P.No.25/2022 dated 15.12.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. 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



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detenu was arrested on 13.10.2022, the detention order was passed only on 15.12.2022, i.e., after a considerable delay of nearly two months. Therefore, the detention order has to be set aside.

3. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 13.10.2022, the order of detention came to be passed only on 15.12.2022 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.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.25/2022 dated 15.12.2022 passed by the second respondent is set aside. The detenu, viz., Gowtham, S/o.Sivakumar, aged about 27 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.)
04.09.2023

NCC : Yes / No
Index : Yes / No
Lm

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Karur Collector Office, Karur District.
- 3.The Superintendent,
Central Prison, Tiruchirappalli.
- 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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