



H.C.P(MD)No.1591 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.1591 of 2022

T.Subathra

.. Petitioner

vs.

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

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

3.The Superintendent,
Special prison for Women,
Thiruchirappalli,
Thiruchirappalli District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records connected with the detention order passed in C.O.C.No.36/2022 dated 09.09.2022 on the file of the second respondent herein and quash the same and direct the



respondents to produce the detainee or body of the detainee namely the petitioner's mother, Dhavamani, W/o.Rajendran, aged about 48 years, now detained at the Special Prison for Women, Thiruchirappalli, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the daughter of the detenie viz., Dhavamani, W/o.Rajendran, aged about 48 years. The detenie has been detained by the second respondent by order in C.O.C.No.36/2022 dated 09.09.2022, holding him to be a 'Bootlegger', as contemplated under Section 2(b) 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 detenue was arrested on 27.07.2022, the detention order was passed only on 09.09.2022 i.e., after a considerable delay of more than 40 days. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenue was arrested on 27.07.2022, the order of detention came to be passed only on 09.09.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenue.

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 C.O.C.No.36/2022 dated 09.09.2022, passed by the second respondent is set aside. The detenue, viz., Dhavamani, W/o.Rajendran, aged about 48 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.)

11.07.2023

NCC : Yes/No

Index : Yes/No

Speaking/Non-speaking order

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