



HCP(MD)No.1652 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2023

CORAM

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

H.C.P.(MD)No.1652 of 2022

M.Indhirani

.. 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,
O/o. The District Collector and District Magistrate,
Madurai – 625 020.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.

.. 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 order passed in B.C.D.F.G.I.S.S.S.V.No.63/2022 dated 10.09.2022 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely



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Sabarinathan @ Sabari, S/o.Mahalingam, male, aged 33 years, who is detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

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., Sabarinathan @ Sabari, aged about 33 years, S/o.Mahalingam. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.V.No.63/2022 dated 10.09.2022 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 07.07.2022, the detention order was passed only on 10.09.2022, i.e., after a considerable delay of 65 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 final report has been filed and the same is pending trial before the I Additional District Court, Madurai in S.C.No.412/2022.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 07.07.2022, the order of detention came to be passed only on 10.09.2022 and hence, there is an abnormal delay in passing the order of detention, which caused prejudice to the interest of the detenu.



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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 B.C.D.F.G.I.S.S.S.V.No.63/2022 dated 10.09.2022 passed by the second respondent is set aside. The detenu, viz., Sabarinathan @ Sabari, S/o.Mahalingam, aged about 33 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
Lm/mbi



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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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and
M.NIRMAL KUMAR,J.

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