



H.C.P.(MD) No.1728 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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M.Vellaththayi

... Petitioner / Mother of the Detenu
Vs.

1.State of Tamil Nadu,
Rep.by the Principal Secretary to Government,
Govt.of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai- 9.

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

3.The Inspector of Police,
All Women Police Station,
Tirunelveli Rural,
In charge: The Inspector of Police,
Seevalaperi Police Station, Tirunelveli.

4.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, calling for the entire records connected with



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the detention order of the 2nd respondent in M.H.S.Confdl.No.136 / 2022, dated 05.08.2022 and quash the same and set the petitioner's son by name Suresh, S/o.Murugan, aged about 21 years at liberty from Central Prison, Palayamkottai / 4th respondent.

For Petitioner : Mr.Aayiram K.Selvakumar

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the mother of the detenu, namely, Suresh, S/o.Murugan, aged about 21 years. The detenu has been detained by the 2nd respondent by his proceedings in M.H.S.Confdl.No.136 / 2022, dated 05.08.2022, holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.



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3. Among other grounds, the learned counsel for the petitioner has raised one of the grounds that there has been a huge delay in considering the representation.

4. In this context, after hearing both the parties, on 05.06.2023, we passed the following order:-

“On perusal of the proforma, we find that the representation was received on 16.09.2022. However, the file has been filed by the ASO / SO only on 07.10.2022, ie., after three weeks. It is definitely be a delay for which there cannot be any acceptable reason. Therefore, we feel that the necessary file be called for and also the concerned ASO / SO, who dealt with the file and submitted on 17.02.2022 shall present before this Court on 12.06.2023.”

5. Pursuant to which, today, when the matter is taken up for hearing, the learned Additional Public Prosecutor for the respondents has submitted that the files were called for and verified by him and there has been a delay in placing the files by the Assistant Section Officer / Section Officer concerned only on 07.10.2022, even though the representation was received on 16.09.2022. Therefore, there has been a delay of nearly about



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three weeks in placing the papers and this delay is caused, because of that according to the learned Additional Public Prosecutor for the respondents, there has been heavy workload as many number of such representations were received arising out of various detention orders from the concerned detaining authorities.

6.It is further submitted by the learned Additional Public Prosecutor for the respondents that there has been only one Section Officer available in the concerned Section of the Home Department to deal with the Act 14 cases. Therefore, the workload is enormous and because of such workload, immediate attention would not be given in such representation. Hence, the delay is occurred.

7.The reason stated by the learned Additional Public Prosecutor for the respondents cannot be accepted, because, in each and every preventive detention cases, the personal liberty of the citizen is involved. Therefore, it is the duty of the State authorities, who are administering the preventive detention law ie., Act 14 of 1982, to see that no violation of such law is taken place at any point of time at any level.



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8. When that being so, if there has been a delay of three weeks even presenting the representation received from the detenu for consideration by the State Government, that cause great prejudice to the detenu and all these days such a delay is caused, the personal liberty is affected. Therefore, we feel that the present reason stated by the learned Additional Public Prosecutor for the respondents cannot be accepted and therefore, on that ground itself, the impugned detention order of the 2nd respondent is liable to be interfered with.

9. However, it is made clear that in future in order to avoid this kind of delay the reason of want of hands at the Secretariat level cannot be shown by the respondents. Therefore, in this context, it is open to the State Government to evaluate the work force available in the Home Department to deal with Act 14 cases and whenever additional man power is required, that can be provided immediately, so that these kind of cases whenever files are received or representations are received would be dealt with and decided then and there in accordance with law.



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10. With these observations, this Habeas Corpus Petition is allowed and the impugned detention order passed by the 2nd respondent in M.H.S.Confdl.No.136 of 2022, dated 05.08.2022 is set aside. As a sequel, the 3rd respondent is hereby directed to set the detenu, namely, Suresh, S/o.Murugan, aged about 21 years, at free, if his presence in the jail is not required for any other cases.

(R.S.K., J.) & (K.K.R.K, J.)

19.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MYR

To

1. The Principal Secretary to Government,
Govt. of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai- 9.

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

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3.The Inspector of Police,
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4.The Superintendent of Prison,
Central Prison, Palayamkottai, Tirunelveli.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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