



HCP(MD)No.1802 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.07.2023

CORAM

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

H.C.P.(MD)No.1802 of 2022

Durai

.. Petitioner /father of the
detenu

Vs.

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

2.The Commissioner of police
Tirunelveli City, Tirunelveli

3.The Superintendent of Prison,
Central Prison,Palayamkottai

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the detention order in No.76/BCDFGISSSV/2022 dated 19.09.2022 passed by the 2nd respondent and set aside the same by setting the detenu by namely Sutharsingh, S/o.Durai aged 21 years and set him at liberty, now detained at



HCP(MD)No.1802 of 2022

Central Prison, Palayamkottai, Tirunelveli District.

WEB COPY

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is father of the detenu viz., Sutharsingh, aged about 21 years, S/o.Durai. The detenu has been detained by the second respondent by his order in detention order in No.76/BCDFGISSSV/2022 dated 19.09.2022 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.



HCP(MD)No.1802 of 2022

3. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 06.08.2022, the detention order was passed only on 19.09.2022 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 detenu was arrested on 06.08.2022, the order of detention came to be passed only on 19.09.2022 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.76/BCDFGISSSV/2022 dated 19.09.2022 passed by the



HCP(MD)No.1802 of 2022

second respondent is set aside. The detenu, viz., Sutharsingh S/o.Durai, aged about 21 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.)
12.07.2023

NCC : Yes/No

Internet : Yes

RR

To

- 1.The Additional Chief Secretary to Government
Home Prohibition and Excise Department,
Chennai-600 009.
- 2.The Commissioner of police
Tirunelveli City, Tirunelveli
- 3.The Superintendent of Prison,
Central Prison,Palayamkottai
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



HCP(MD)No.1802 of 2022

M.S.RAMESH, J.
and
M.NIRMAL KUMAR,J.

RR

H.C.P.(MD)No.1802 of 2022

12.07.2023