



HCP(MD)No.1789 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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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.1789 of 2022

Jeyamary

.. Petitioner /mother of the
detenu

Vs.

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

2.State represented by
The District Collector and
District Magistrate
Tirunelveli District, Tirunelveli

3.The Superintendent of Prison,
Central Prison,Coimbatore

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records from the second respondent in MHS Confdl. No.165/2022 dated 16.09.2022 by setting aside the said order of detention passed by the second respondent and setting the detenu Jacob,



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S/o.Jeyakumar aged 20 years at liberty now detained in the Central Prison,
Coimbatore.

For Petitioner : Mr.K.Prabhu
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is mother of the detenu viz., Jacob, aged about 22 years, S/o.Jeyakumar. The detenu has been detained by the second respondent by his order in detention order in MHS Confdl. No.165/2022 dated 16.09.2022 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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 16.09.2022 and the grounds of detention ought to have been served within five days, ie., on or before 21.09.2022. However, it was served on the detenu only on 24.09.2022 and therefore, there is a delay of eight days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.

4. Perusal of the record shows that no doubt, the detention order was passed on 16.09.2022 and the booklet was served on the detenu only on 24.09.2022. As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of seven days and hence, the detention order is liable to be quashed.



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5. In the result, the Habeas Corpus Petition is allowed and the order of detention in MHS Confdl. No.165/2022 dated 16.09.2022 passed by the second respondent is set aside. The detenu, viz., Jacob S/o.Jeyakumar, aged about 22 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,
Secretariat, Chennai-600 009.
- 2.The District Collector and
District Magistrate
Tirunelveli District, Tirunelveli
- 3.The Superintendent of Prison,
Central Prison,Coimbatore
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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

RR

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