



HCP(MD)No.1800 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.07.2023

CORAM

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

H.C.P.(MD)No.1800 of 2022

Ramamoorthy

.. Petitioner/Cousin of the Detenu

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Madurai District,
Madurai.
- 3.The Superintendent of Police,
Madurai District,
Madurai.
- 4.The Superintendent of Prison,
Central Prison,
Madurai,
Madurai District.
- 5.The Inspector of Police,
Alanganallur Police Station,
Madurai District.

.. Respondents



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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 the detention order in B.C.D.F.G.I.S.S.S.V.No.55/2022, dated 17.08.2022, on the file of the second respondent, quash the same and direct the respondents to produce the body and person of the petitioner's cousin Muthuraj, S/o.Kumar, aged about 24 years, presently confined at Central Prison at Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Loganathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the cousin of the detenu viz., Muthuraj, S/o.Kumar, aged about 24 years. The detenu has been detained by the second respondent by his order in B.C.D.F.G.I.S.S.S.V.No.55/2022, dated 17.08.2022, 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.



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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 08.07.2022, the detention order was passed only on 17.08.2022, *i.e.*, after a considerable delay of 40 days. Therefore, the detention order has to be set aside.

4. Though the respondents have not filed counter affidavit, the learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition. He would submit that though there was delay in passing the detention order, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 08.07.2022, the order of detention came to be passed only on 17.08.2022 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.V.No.55/2022, dated 17.08.2022, passed by the second respondent is set aside. The detenu, viz., Muthuraj, S/o.Kumar, aged about 24 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.)
06.07.2023

NCC : Yes / No
Index : Yes / No
Lm/smn2

To

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Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.



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2. The District Collector and District Magistrate,
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Madurai.

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4. The Superintendent of Prison,
Central Prison,
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5. The Inspector of Police,
Alanganallur Police Station,
Madurai District.

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



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