



HCP(MD)No.1834 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.1834 of 2022

Kanchanadevi

.. Petitioner /wife of the  
detenu

Vs.

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

2.The Commissioner of police  
Tiruchirappalli City, Tiruchirappalli.

3.The Superintendent of Prison,  
Central Prison,  
Tiruchirappalli

.. 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 C.No.136/Detention/CPO/TC/2022 dated 21.09.2022 passed by the 2<sup>nd</sup> respondent and set aside the same by setting the detenu namely Swaminathan, S/o.Chinnannan aged 42/2022 years and set him at liberty,



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now detained at Central Prison, Tiruchirappalli, Tiruchirappalli District.

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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 wife of the detenu viz., Swaminathan, aged about 42 years, S/o.Chinnannan. The detenu has been detained by the second respondent by his order in detention order in C.No. 136/Detention/CPO/TC/2022 dated 21.09.2022 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. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 10.08.2022, the detention order was passed only on 21.09.2022 i.e., after a considerable delay of more than 40 days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor, while made his objection, would submit that in the present case on completion of investigation, charge sheet has been filed and the same is pending in SC No. 129/2023 before the III Additional District Judge, Trichy.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 10.08.2022, the order of detention came to be passed only on 21.09.2022 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenu.

6. We have gone through the entire materials placed on record. There is no satisfactory explanation offered by the Detaining Authority for the



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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 C.No.136/Detention/CPO/TC/2022 dated 21.09.2022 passed by the second respondent is set aside. The detenu, viz., Swaminathan S/o.Chinnannan, aged about 42 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 Secretary to Government  
Home Prohibition and Excise Department,  
Secretariat, Chennai-600 009.
- 2.The Commissioner of police  
Tiruchirappalli City, Tiruchirappalli.
- 3.The Superintendent of Prison,  
Central Prison,Tiruchirappalli
- 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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