



HCP(MD)No.1853 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.07.2023

CORAM

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

H.C.P.(MD)No.1853 of 2022

Arivoli

.. Petitioner /Brother of the Detenu

Vs.

1.Government of Tamil Nadu

represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The District Magistrate and District Collector,

District Collector,
Karur District,
Karur.

3.The Superintendent,

Central Prison,
Tiruchirappalli.

.. 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 the detention order of the second respondent in Detention Order Cr.M.P.No.15/2022 dated 06.09.2022 and quash the same and direct the



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respondents to produce the body or person of petitioner's brother namely Nilavoli son of Appavu Male aged about 42/2022 years, now confined at Central Prison, Tiruchirappalli and set him at liberty forthwith.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the brother of the detenu viz., Nilavoli, aged about 42 years, S/o.Appavu. The detenu has been detained by the second respondent by his order in Cr.M.P.No.15/2022 dated 06.09.2022 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. 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.

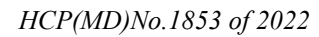


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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 06.09.2022 and the grounds of detention ought to have been served within five days, i.e., on or before 11.09.2022. However, it was served on the detenu only on 13.09.2022 and therefore, there is a delay of seven 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. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. It is further submitted that investigation has been completed in this case and final report has been filed and the same is pending trial before the Mahila Court, Karur in S.C.No.8/2023.

5. Perusal of the record would go to show that no doubt, the detention order was passed on 06.09.2022 and the booklet was served on the detenu only on 13.09.2022, which is evident from the endorsement made as under:



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 six days and hence, the detention order is liable to be quashed.



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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.15/2022 dated 06.09.2022 passed by the second respondent is set aside. The detenu, viz., Nilavoli, S/o.Appavu, 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.)
11.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi

To

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
District Collector,
Karur District,
Karur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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