



HCP(MD)No.1863 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.07.2023

CORAM

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

H.C.P.(MD)No.1863 of 2022

Mariyammal

.. Petitioner /Grandmother of the detenu

Vs.

1.The Secretary to Government

Home (Prohibition and Excise Department),

St. George Fort,

Chennai-600 009.

2.The District Collector cum District Magistrate,

Madurai District.

3.The Superintendent of Prison,

Central Prison,

Madurai District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent vide BCDFGISSSV.No.68/2022 dated 06.10.2022 and set aside the same and consequently direct the respondents to produce the detenu / petitioner's grandson namely, Manimaran, S/o.Muthaiah, aged about 37 years, before this Court, now he is detained at Central Prison, Madurai, and set him at liberty forthwith.

For Petitioner : Mr.K.Muthumalai

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is grandmother of the detenu viz., Manimaran, S/o.Muthaiah, aged about 37 years. The detenu has been detained by the second respondent by his order in detention order in BCDFGISSSV.No. 68/2022 dated 06.10.2022 holding him to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



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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.

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 08.08.2022, the detention order was passed only on 06.10.2022 i.e., after a considerable delay of more than 55 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 08.08.2022, the order of detention came to be passed only on 06.10.2022 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



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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 BCDFGISSSV.No.68/2022 dated 06.10.2022 passed by the second respondent is set aside. The detenu, viz., Manimaran, S/o.Muthaiah, aged about 37 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.)
14.07.2023

NCC : Yes/No
Internet : Yes
Index : Yes / No

RM/RR



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Madurai Bench of Madras High Court,
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M.NIRMAL KUMAR,J.

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