



HCP(MD)No.1858 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.1858 of 2022

Theivanai

.. Petitioner /Wife of the detenu

Vs.

1.The Principal Secretary to the Government
Home Prohibition and Excise (XVI) Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector
Pudukkottai District,
Pudukkottai.

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 entire records pertaining to the impugned detention order passed by the second respondent made in his



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proceedings in P.D.O.No.42/2022 dated 07.10.2022 in detaining the detenu under Section 2(e) of the Tamil Nadu Act 14 of 1982 as a Drug Offender and quash the same and direct the respondents to produce the detenu namely, Ramanathan, S/o.Subbaiah, Male, aged about 33 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

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

ORDER

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

The petitioner is the wife of the detenu viz., Ramanathan, S/o.Subbaiah, Male, aged about 33 years. The detenu has been detained by the second respondent by his order in Detention Order in P.D.O.No.42/2022 dated 07.10.2022, holding him to be a "Drug Offender", as contemplated under Section 2(e) of the 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 06.08.2022, the detention order was passed only on 07.10.2022 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 06.08.2022, the order of detention came to be passed only on 07.10.2022 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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5. 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.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.O.No.42/2022 dated 07.10.2022 passed by the second respondent is set aside. The detenu, viz., Ramanathan, S/o.Subbaiah, Male, aged about 33 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
RM/RR



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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.

RM/RR

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