



H.C.P(MD)No.1886 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.1886 of 2022

Sivaprakash @ Thoppukaran

.. Petitioner

vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Madurai District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the entire records connected with the detention order of the second respondent in BCDFGISSSV.No.73/2022 dated 19.10.2022 and quash the same and direct the respondents to produce the detenu or body of the detenu namely Sivaprakash @ Thoppukaran,



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S/o.Sivagnanam, aged about 26 years, detained as 'Goonda' in Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.S.RAMESH, J.]

The petitioner is the detenu viz., Sivaprakash @ Thoppukaran, S/o.Sivagnanam, aged about 26 years. The detenu has been detained by the second respondent by order in BCDFGISSSV.No.73/2022 dated 19.10.2022, 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.



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 26.08.2022, the detention order was passed only on 19.10.2022 i.e., after a considerable delay of nearly fifty five days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor would submit that on completion of investigation, charge sheet has been filed in C.C.No.34 of 2023 and is pending before the learned Judicial Magistrate, Usilampatti.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 26.08.2022, the order of detention came to be passed only on 19.10.2022 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 BCDFGISSSV.No.73/2022 dated 19.10.2022, passed by the second respondent is set aside. The detenu, viz., Sivaprakash @ Thoppukaran, S/o.Sivagnanam, aged about 26 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.)

17.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

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Madurai Bench of Madras High Court,
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