



HCP(MD)No.1898 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.1898 of 2022

K.Sivamayilu

.. Petitioner /Mother of Detenu

Vs.

1.Government of Tamil Nadu
represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent,
Central Prison,
Madurai.

.. 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 No.75/BCDFGISSSV/2022 dated 13.09.2022 and quash the same and direct the respondents to produce the person or body of the detenu namely Kida @ Arivazhagan,



HCP(MD)No.1898 of 2022

S/o.Alaguraja, aged 22 years (now detained at Central Prison, Madurai)
before this Court and set him at liberty.

For Petitioner : Mr.K.Dinesh

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenu viz., Kida @ Arivazhagan, aged about 22 years, S/o.Alaguraja. The detenu has been detained by the second respondent by his order in No.75/BCDFGISSSV/2022 dated 13.09.2022 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.



HCP(MD)No.1898 of 2022

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 25.06.2022, the detention order was passed only on 13.09.2022, i.e., after a considerable delay of 80 days. Therefore, the detention order has to be set aside.

4. The learned Additional Public Prosecutor has 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 Judicial Magistrate Court No.2, Madurai in P.R.C.No.32/2022.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 25.06.2022, the order of detention came to be passed only on 13.09.2022 and hence, there is an abnormal delay in passing the order of detention, which caused prejudice to the interest of the detenu.



HCP(MD)No.1898 of 2022

6. 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.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.75/BCDFGISSSV/2022 dated 13.09.2022 passed by the second respondent is set aside. The detenu, viz., Kida @ Arivazhagan, S/o.Alaguraja, aged about 22 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



HCP(MD)No.1898 of 2022

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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HCP(MD)No.1898 of 2022

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and
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H.C.P.(MD)No.1898 of 2022

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