



H.C.P(MD)No.1913 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.1913 of 2022

Banukovan

.. Petitioner

vs.

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

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

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

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records in pursuant to the proceedings of the second respondent in Detention Order No.95/2022 dated 20.10.2022, quash the same and consequently direct the respondents to produce the detenu, namely, Ponvannan, S/o.Banugovan, aged about 25 years, who is now detained in Central Prison, Madurai before this Court and set him at liberty.



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For Petitioner : Mr.C.Susi Kumar

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 father of the detenu viz., Ponvannan, S/o.Banugovan, aged about 25 years. The detenu has been detained by the second respondent by Detention Order No.95/2022 dated 20.10.2022, 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 31.08.2022, the detention order was passed only on 20.10.2022 i.e., after a considerable delay of nearly fifty 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 S.C.No.51 of 2023 and is pending before the learned Mahila Judge, Theni.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 31.08.2022, the order of detention came to be passed only on 20.10.2022 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 delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.



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7. In the result, the Habeas Corpus Petition is allowed and the order of detention in No.95/2022 dated 20.10.2022, passed by the second respondent is set aside. The detenu, viz., Ponvannan, S/o.Banugovan, aged about 25 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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