



H.C.P.(MD) No.1987 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1987 of 2022

Vimala

... Petitioner / Wife of Detenue

Vs.

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

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

3.The Superintendent,
Central Prison,
Tiruchirapalli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Habeas Corpus, to call for the records pertaining to the



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detention order passed by the 2nd respondent made in his proceedings in Cr.M.P. No.25 of 2022, dated 15.05.2022 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the Detenu namely Mosai @ Mosaiyan @ Balamurugan, S/o. Kaliyaperumal, Male, aged about 39 years, who is detained in Central Prison, Tiruchirapalli, before this Hon'ble Court and set him at liberty.

For Petitioner : Ms.M.Krishnaveni

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

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

The petitioner is the wife of the detenu. This Habeas Corpus Petition has been filed by her to call for the records pertaining to the detention order passed by the 2nd respondent made in his proceedings in Cr.M.P. No.25 of 2022, dated 15.05.2022 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu, namely, Mosai @ Mosaiyan @ Balamurugan, S/o. Kaliyaperumal, male, aged about 39 years, who is detained in Central Prison, Tiruchirapalli, before this Hon'ble Court and set him at liberty.



2. Since there has been four adverse cases and one ground case against the detenu and the detenu has been arrested in the ground case on 25.03.2022, considering the same, as per the recommendation of the sponsoring authority, the detaining authority has slapped Act 14 of 1982 against the detenu and the detention order has been passed on 15.05.2022, challenging the same the present Habeas Corpus Petition has been filed.

3. Heard Ms.M.Krishnaveni, learned counsel appearing for the petitioner, though she has raised several points assailing the impugned order of detention, one such ground is that, there is a delay of more than 50 days in slapping the Act 14 of 1982, even though in the ground case the detenu has been arrested on 25.03.2022.

4. An attempt has been made by Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents to explain the delay that after the arrest made in ground case on 25.03.2022, statement has to be obtained and after collecting the materials and after obtaining the statement with regard to the involvement of the detenu in the earlier cases also, which earned conviction against the detenu, the sponsoring authority



had made recommendation to the detaining authority to invoke Act 14 of 1982, therefore, there is a reasonable time that has been taken, hence, the 50 days delay cannot be stated as an inordinate delay for the purpose of slapping Act 14 of 1982 against the detenu, he contended.

5. We have considered the said submissions made by the learned counsel appearing for both sides and have also perused the materials placed before this Court.

6. Even though such an explanation has been given by the learned Additional Public Prosecutor for such a delay of 50 days, it can be construed that the 50 days delay is not an ordinary delay, therefore, if it is huge delay which has to be explained properly by the respondents.

7. Though the respondents have stated that, after the arrest made in the ground case on 25.03.2022, thereafter, it has taken a reasonable time to record the statement and collecting the materials for the purpose of making the recommendation by the sponsoring authority and hence, after considering the report of the sponsoring authority, the detaining authority



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has passed the detention order on 15.05.2022, therefore, 50 days time had been taken to slap Act 14 of 1982, such an explanation given by the respondents cannot be accepted because for the aforesaid reasons such a delay of 50 days cannot be occurred. Therefore, such a delay can be construed as an inordinate delay and on that ground, we feel that the impugned detention would not stand in the legal scrutiny, accordingly, we feel that this Habeas Corpus Petition can be allowed.

8. In the result, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in Cr.M.P.No.25 of 2022 dated 15.05.2022, is set aside. Consequently, the detenu, namely, Mosai @ Mosaiyan @ Balamurugan, S/o. Kaliyaperumal, aged about 39 years, who is now detained at Central Prison, Tiruchirapalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

(R.S.K., J.) & (K.K.R.K, J.)
26.04.2023

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



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AND

K.K.RAMAKRISHNAN, J.

SJ

To

- 1.The Additional Chief Secretary to Government,
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- 2.The District Collector and District Magistrate,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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