



HCP(MD)No.2056 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.2056 of 2022

Sumathi

.. Petitioner/Mother of the Detenu

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 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 B.C.D.F.G.I.S.S.V.No. 76/2022, dated 31.10.2022, quash the same and direct the respondents to produce the body or person of the detenu by name, Suirya, aged about 23



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years, S/o.Kasiviswanathan, now detained as "Goonda" at the Central Prison, Madurai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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., Suirya, aged about 23 years, S/o.Kasiviswanathan. The detenu has been detained by the second respondent by his Detention Order in B.C.D.F.G.I.S.S.S.V.No.76/2022, dated 31.10.2022, 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.



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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 07.09.2022, the detention order was passed only on 31.10.2022, *i.e.*, after a considerable delay of 54 days. Therefore, the detention order has to be set aside.

4. Though the respondents have not filed counter affidavit, the learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition. He would submit that though there was delay in passing the detention order, on that score alone, the impugned detention order cannot be quashed.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 07.09.2022, the order of detention came to be passed only on 31.10.2022 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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6. We have gone through the 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 B.C.D.F.G.I.S.S.V.No.76/2022, dated 31.10.2022, passed by the second respondent is set aside. The detenu, viz., Suirya, aged about 23 years, S/o.Kasiviswanathan, 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.)
18.07.2023

NCC : Yes / No
Index : Yes / No
smn2/yuva

To

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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