



HCP(MD)No.2096 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.07.2023

CORAM

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

H.C.P.(MD)No.2096 of 2022

Daisy

... Petitioner / Wife of the Detenue

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Trichy City, Trichy.
- 3.The Inspector of Police,
Cantonment Police Station,
Trichy City.
- 4.The Superintendent of Prison,
Central Prison,
Trichy.

... 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 order



HCP(MD)No.2096 of 2022

of detention passed by the 2nd respondent in his proceedings in C.No. 172/Detention/C.P.O./T.C./2022 dated 01.12.2022 and quash the same as illegal and produce the detenu namely Dharman @ Dharmaraj, S/o.Hendri, aged about 69 years now he is confined in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu viz., Dharman @ Dharmaraj, S/o.Hendri, Male, aged about 69 years. The detenu has been detained by the second respondent by his order in C.No. 172/Detention/C.P.O./T.C./2022 dated 01.12.2022, 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.



HCP(MD)No.2096 of 2022

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. Learned counsel appearing for the petitioner strongly contended that though the detenu was arrested on 25.10.2022, the detention order was passed only on 01.12.2022 i.e., after a considerable delay of more than 35 days. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenu was arrested on 25.10.2022, the order of detention came to be passed only on 01.12.2022 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.2096 of 2022

5.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.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.172/Detention/C.P.O./T.C./2022 dated 01.12.2022 passed by the second respondent is set aside. The detenu, viz., Dharman @ Dharmaraj, S/o.Hendri, Male, aged about 69 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.)
24.07.2023

NCC : Yes / No
Index : Yes / No

Yuva



HCP(MD)No.2096 of 2022

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1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai – 600 009.
2. The Joint Secretary to Government,
Public Law and Order
Fort St. George,
Chennai-600 009.
3. The Commissioner of Police,
Trichy City, Trichy.
4. The Inspector of Police,
Cantonment Police Station,
Trichy City.
5. The Superintendent of Prison,
Central Prison,
Trichy.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.2096 of 2022

**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

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H.C.P.(MD)No.2096 of 2022

24.07.2023