



H.C.P(MD)No.2123 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2023

CORAM :

THE HONOURABLE MR JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

H.C.P(MD)No.2123 of 2022

S.Mahalakshmi

.. Petitioner

vs.

1.The Principal Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600 009.

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

3.The Superintendent of Prison,
District Prison, Athur,
Salem.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus calling for the records pertaining to the impugned detention order in C.No.159/Detention/C.P.O/T.C/2022 dated 10.11.2022 passed by the second respondent is illegal and set aside the same by setting the detenu by name Sachin @ Sachidanandan, S/o.Saravanan, aged about 22 years, now detained at District Prison, Athur, Salem District at liberty.



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For Petitioner : Mrs.R.Yamuna
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 mother of the detenu viz., Sachin @ Sachidanandan, S/o.Saravanan, aged about 22 years. The detenu has been detained by the second respondent by order in C.No. 159/Detention/C.P.O/T.C/2022 dated 10.11.2022, 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 26.09.2022, the detention order was passed only on 10.11.2022 i.e., after a considerable delay of nearly forty five 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 P.R.C.No.26 of 2022 and is pending before the learned Judicial Magistrate, Srirangam.

5. As seen from the grounds of detention, it is clear that though the detenu was arrested on 26.09.2022, the order of detention came to be passed only on 10.11.2022 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 C.No.159/Detention/C.P.O/T.C/2022 dated 10.11.2022, passed by the second respondent is set aside. The detenu, viz., Sachin @ Sachidanandan, S/o.Saravanan, 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.)
19.07.2023

NCC : Yes/No
Index : Yes/No
Speaking/Non-speaking order

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To

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



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and
M.NIRMAL KUMAR, J.

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