



WEB COPY



HCP.No.418 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH  
and  
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.418 of 2024

S.R.Devar @ S.Rajasekar

... Petitioner

Vs.

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

2.The Commissioner of Police  
Greater Chennai Police Commissionerate  
Vepery, Chennai 600 007

3.The Superintendent of Prison  
Central Prison, Puzhal  
Chennai 600 066

4.The Inspector of Police  
Team 37, EDF-II  
Central Crime Branch (CCB-I)  
Vepery, Chennai 600 007

... Respondents

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



HCP.No.418 of 2024

of Police, Greater Chennai Police Commissionerate, Vepery, Chennai 600 007, the 2nd respondent herein in connection with the detention order vide Memo No.103/BCDFGISSSV/2024 dated 12.02.2024 and quash the same and further direct the respondents to produce the detenu Thiru.S.R.Devar @ S.Rajasekar, son of Subbaiah, aged 68 years, who is detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Ramana Reddy

For Respondents : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

### ORDER

M.S.RAMESH, J.  
and  
SUNDER MOHAN, J.

The petitioner herein, is the detenu namely S.R.Devar @ S.Rajasekar, aged about 68 years, S/o.Subbaiah, has come forward with this petition challenging the detention order passed by the second respondent dated 12.02.2024 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



HCP.No.418 of 2024

WEB COPY

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 20.02.2024. According to the learned counsel for the petitioner, though the representation is dated 20.02.2024, the same has been received by the Government only on 18.03.2024; the file has been dealt with by the Deputy Secretary on 25.03.2024 and the Minister concerned dealt with the file only on 30.03.2024 and the Rejection Letter was prepared on 01.04.2024 and sent to the detenu on 02.04.2024. It is the further submission of the learned counsel that the delay of 7 days in considering the representation remains unexplained and the same vitiates the detention order. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in ***Rajammal Vs. State of Tamil Nadu, reported in (1999) 1 SCC 417.***

4. As per the submission of the learned counsel for the petitioner and



HCP.No.418 of 2024

WEB COPY

on perusal of the records, we find that the representation of the petitioner is dated 20.02.2024, which was received by the Government on 18.03.2024 and further, the Minister concerned had dealt with the file of the detenu only on 30.03.2024 and the Rejection Letter was sent to the detenu on 02.04.2024. Thus, we find there is a considerable delay of 7 days in considering the representation of the petitioner. This delay of 7 days in considering the petitioner's representation remains unexplained.

5. It is trite law that the representation should be very expeditiously considered and disposed of with a sense of urgency and without avoidable delay. Any unexplained delay in the disposal of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. From the records produced, we find that no acceptable explanation has been offered for the delay of 7 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

6. In the judgment of the Hon'ble Supreme Court in ***Rajammal's case (cited supra)***, it has been held as follows:



HCP.No.418 of 2024

WEB COPY

*"It is a constitutional obligation of the Government to consider the representation forwarded by the detenue without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be " in clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest."*

As per the dictum laid down by the Supreme Court in above cited ***Rajammal's case***, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the authorities concerned. But, here the inordinate delay of 7 days has not been properly explained at all.

7. Further, in a recent decision in ***Ummu Sabeena vs. State of Kerala-2011 STPL (Web) 999 SC***, the Hon'ble Supreme Court has held that the history of personal liberty, as is well known, is a history of insistence on procedural safeguards. The expression 'as soon as may be', in Article 22(5) of the Constitution of India clearly shows the concern of the makers of the Constitution that the representation made on behalf of the



HCP.No.418 of 2024

detenue, should be considered and disposed of with a sense of urgency and without any avoidable delay.

WEB COPY

8. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of delay on the part of the Government in disposing of the representation of the petitioner.

9. Accordingly, the detention order passed by the second respondent on 12.02.2024 in No.103/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Thiru.S.R.Devar @ Rajasekar, aged about 68 years, S/o.Subbaiah is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R., J] [S.M., J]

24.06.2024

Index: Yes/No

Neutral Citation: Yes/No

kas



HCP.No.418 of 2024

To

WEB COPY

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

2.The Commissioner of Police  
Greater Chennai Police Commissionerate  
Vepery, Chennai 600 007

3.The Superintendent of Prison  
Central Prison, Puzhal  
Chennai 600 066

4.The Inspector of Police  
Team 37, EDF-II  
Central Crime Branch (CCB-I)  
Vepery, Chennai 600 007

5.The Public Prosecutor  
High Court of Madras  
Chennai 600 104



WEB COPY



*HCP.No.418 of 2024*

M.S.RAMESH, J.  
and  
SUNDER MOHAN, J.

kas

H.C.P.No.418 of 2024

24.06.2024