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HCP.No.1214 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

H.C.P.No.1214 of 2024

Anitha

... Petitioner

Vs.

1. The Additional Secretary To Government Of India,
Ministry Of Consumer Affairs,
Food And Public Distribution,
(Department Of Consumer Affairs)
Room No.270, Krishi Bhavan,
New Delhi-110 001.

2. The Principal Secretary To The Government,
Food And Consumer Protection Department,
II Nd Floor, Namakkal Kavingnar Maaligai,
Secretariat, Chennai.

3. District Collector
And District Magistrate
Of Krishnagiri,



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Krishnagiri District.

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4. Superintendent Of Police
Krishnagiri.

5. Superintendent Of Prison,
Central Prison, Salem.

6. Inspector Of Police,
Civil Supply Crime Investigation Department,
Krishnagiri.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the 3rd respondent in his office ref.S.C.No.16/2024 (CS) dated 14.05.2024 against the petitioner's husband Annadurai, W/o. Subramani, aged about 30 years at Central Prison, Salem District and set aside the same and direct the respondents to produce the detainee before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.R.Thulasi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor



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4. 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 inordinate delay. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

5. In the judgment of the Hon'ble Supreme Court in ***Rajammal vs State Of Tamil Nadu And Another***¹, it has been held as follows:

"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu 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."

¹ (1999) 1 SCC 417



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6.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 has not been properly explained at all.

7. Further, in a recent decision in ***Ummu Sabeena vs. State of Kerala***², 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 detenu, should be considered and disposed of with a sense of urgency and without any avoidable delay.

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.

² 2011 STPL (Web) 999 SC



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9. Accordingly, the detention order passed by the 3rd respondent in his office ref.S.C.No.16/2024 (CS) dated 14.05.2024, is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Annadurai S/o.Subramani, aged 30 years who is presently under going detention in the Central Prison, Salem, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.M.S., J.]

[R.S.V., J.]

19.08.2024

Index : Yes/No
Speaking Order : Yes/No

Sha



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S.M.SUBRAMANIAM, J.
AND
R.SAKTHIVEL, J.

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