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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1275 of 2024

Nishanth

... Petitioner

Vs.

- 1 The Secretary To Government,
Home Prohibition And Excise Department,
Secretariat,
Chennai – 600 009
- 2 The District Collector and District Magistrate of
Kallakurichi, Kallakurichi District.
- 3 The Superintendent of Police,
Kallakurichi, Kallakurichi District.
4. The Superintendent of Police,
Special Prison for Women – Vellore,
Vellore District.
5. State rep. By its,
The Inspector of Police,
PEW Kallakurichi Police Station,
Kallakurichi District.

... Respondents



HCP.No.1275 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the petitioner's mother detention under Tamil Nadu act 14 of 1982 vide detention order, dated 15.05.2024 on the file of the second respondent herein made in proceedings memo D.O.No. C2/10/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's mother namely Vijaya, W/o. Arumugam, aged 42 years before this court and set the petitioner's mother at liberty from detention, now the petitioner's mother detained at Special Prison for Women, Vellore.

For Petitioner : Mr.W.Camyles Gandhi

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

ORDER

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

The order of detention passed by the 2nd respondent in proceedings Memo D.O.No. C2/10/2024 dated 15.05.2024, is sought to be quashed in the present Habeas Corpus Petition.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The order of detention sought to be assailed and the fact as narrated would



reveal that, there is a delay of seven days in considering the representation. The delay in considering the representation and the period during which the detenu was under detention would be construed as violation of the Constitutional mandatory under Article 22 of Constitution of India and thus, the ground of delay in considering the representation became fatal in the case of preventive detention.

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's case (cited supra)***, 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,



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disposing of the representation of the petitioner.

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9. Accordingly, the detention order passed by the second respondent, in Memo D.O.No. C2/10/2024 dated 15.05.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vijaya, W/o. Arumugam, aged 42 years, now confined at Special Prison for Women, Vellore is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

gd

To

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