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H.C.P.No.1722 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1722 of 2023

Revathi

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner of Police,
Salem City.

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Inspector of Police,
Annadanapatty Police Station,
Salem District.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, calling for the entire records leading to the detention of the petitioner's son namely Raghupathy Male, aged about 27 years is presently lodged in



H.C.P.No.1722 of 2023

Central Prison at Salem and has been detained under Act 14/82 as a “GOONDA” vide detention order dated 26.07.2023 on the file of the 2nd respondent herein, made in C.M.P.No.69/GOONDA/Salem City/2023 quash the same and consequently, direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Salem.

For Petitioner : Mr.E.C. Ramesh
For Respondents : Mr.E. Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

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

The petitioner herein, who is the mother of the detenu Raghupathy, S/o.Sekar, aged 27 years, has come forward with this petition challenging the detention order passed by the second respondent dated 26.07.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, 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].



H.C.P.No.1722 of 2023

WEB COPY

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 08.06.2023, the detention order was passed only on 26.07.2023, i.e., after a delay of more than 48 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 08.06.2023, the order of detention came to be passed only on 26.07.2023 and hence, there is an abnormal delay in passing the order of detention, which caused prejudice to the interest of the detenu.

5. We have gone through the entire materials placed on record.



H.C.P.No.1722 of 2023

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. Accordingly, the detention order passed by the second respondent, in C.M.P.No.69/Goonda/Salem City/2023, dated 26.07.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Raghupathy, S/o. Sekar, aged 27 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

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

03.01.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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H.C.P.No.1722 of 2023

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5.The Public Prosecutor,
High Court, Madras.



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