



WEB COPY



H.C.P.No.2564 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM:

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2564 of 2024

Keerthika

... Petitioner

Vs.

1.The Secretary to Government,
Co-operation Food and Consumer
Production Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Coimbatore District,
Coimbatore – 18.

3.The Addl. Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Dept. of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi – 110 001.

4.The Superintendent of Police,
Coimbatore, Coimbatore District.



H.C.P.No.2564 of 2024

5.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.

6.State rep. by its
The Inspector of Police,
CSCID – Coimbatore,
Coimbatore District.
(Crime No.155/2024)

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 18.09.2024 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.52/BM/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Sudhakar, S/o.Thulasimani, aged 29 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband at Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For RR1, 2, 4 & 5 : Mr.R.Muniyapparaj
Additional Public Prosecutor



H.C.P.No.2564 of 2024

ORDER

WEB COPY

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

The order of detention passed by the second respondent in proceedings Cr.MP.No.52/BM/2024 dated 18.09.2024, 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 1, 2, 4 & 5.

3. The order of detention sought to be assailed and the fact as narrated would reveal that, there is a delay of 29 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 the Constitution of India and thus, the ground of delay in considering the representation became fatal in the case of preventive detention.



H.C.P.No.2564 of 2024

WEB COPY

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 the case of '**Rajammal Vs. State of Tamil Nadu**', reported in '**(1999) 1 SCC 417**', 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.”



H.C.P.No.2564 of 2024

WEB COPY

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***' reported in '***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 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 detenu.



H.C.P.No.2564 of 2024

WEB COPY

9. Accordingly, the detention order passed by the second respondent, in Cr.MP.No.52/BM/2024 dated 18.09.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sudhakar, S/o.Thulasimani , aged 29 years, (who is presently under going detention in the Central Prison, Coimbatore), is directed to be set at liberty forthwith, unless he is required in connection with any other case.

(S.M.S, J.)

(M.J.R, J.)

06.12.2024

Index: Yes

Internet: Yes/No

Neutral Citation: Yes/No

Sni



H.C.P.No.2564 of 2024

To
WEB COPY

- 1.The Secretary to Government,
Co-operation Food and Consumer
Production Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Coimbatore District,
Coimbatore – 18.
- 3.The Addl. Secretary,
Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Dept. of Consumer Affairs),
Room No.270, Krishi Bhawan,
New Delhi – 110 001.
- 4.The Superintendent of Police,
Coimbatore,
Coimbatore District.
- 5.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.
- 6.The Inspector of Police,
CSCID – Coimbatore,
Coimbatore District.



WEB COPY



H.C.P.No.2564 of 2024

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

Sni

H.C.P.No.2564 of 2024

06.12.2024