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HCP.No.2460 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.No.2460 of 2023

Mari @ K.D.Mari

.. Petitioner

Vs.

- 1.State of Tamilnadu,
Rep. by the Additional Chief Secretary
to Government, Home Prohibition & Excise Dept.,
Fort St. George, Chennai 600 009.
2. District Collector and District Magistrate
of Chengalpattu District, Office of the District
Collecotr and District Magistrate,
Chengalpattu, Chengalpattu District.
- 3.The Superintendent of Police,
Chengalpattu, Chengalpattu District.
- 4.The Superintendent of Prison,
Central Prison, Puzhal Chennai 600 066.
- 5.The Inspector of Police,
Chengalpattu Town Police Station,
Chengalpattu District.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the detention order in CPT No.68/2023, dated 06.10.2023 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondents to produce the detainee Mari @ K.D.Mari S/o.Karuppaiah aged about 21 years, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.B.Suresh Lal
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.Aravind.C

ORDER

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

The petitioner viz., Mari @ K.D.Mari, S/o Karuppaiah, aged 21 years, has come forward with this petition challenging the detention order passed by the second respondent dated 06.10.2023 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand



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Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of

WEB COPY (1982)].

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

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focussed mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 25.11.2023. According to the learned counsel for the petitioner, though the representation is dated 25.11.2023, the same has been received by the Government only on 14.12.2023; the file has been dealt with by the Deputy Secretary on 15.12.2023 and the Minister concerned dealt with the file only on 19.12.2023 and the Rejection Letter was prepared on 20.12.2023 and sent to the detenu on 21.12.2023. It is the further submission of the learned counsel that the delay of 4 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,***



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6. 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, 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 4 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



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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.

9. Accordingly, the detention order passed by the second respondent, in CPT No.68/2023 dated 06.10.2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mari @ K.D.Mari S/o.Karuppaiah, aged 21 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.)
09.02.2024

NCC : Yes / No
Index : Yes / No
sr



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- To
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of Chengalpattu District, Office of the District
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 - 6.The Additional Public Prosecutor,
Madras High Court, Chennai.



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

SR

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