



H.C.P.(MD) No.192 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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Pandeeswari

... Petitioner

-VS-

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

2.The District Magistrate and District Collector,
Karur District,
Karur.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Cr.M.P.No.1/2024, dated 12.01.2024 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the



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respondents to produce the detenu namely Kakkappan @ Karthick, S/o.Nallaiyan, Male, aged about 30 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The petitioner is the mother of the detenu viz., Kakkappan @ Karthick, son of (Late) Nallaiyan, aged about 30 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.1/2024, dated 12.01.2024 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

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. Though several grounds have been raised in the habeas corpus petition, learned counsel appearing for the petitioner would mainly focus his arguments on the ground that there is an inordinate delay between the arrest of the detenu and passing the impugned detention order. In this case, the detenu was arrested on 09.11.2023, and the impugned detention order came to be passed only on 12.01.2024, i.e., after a lapse of 1 1/2 months. This inordinate delay in passing the detention order would vitiate the same. He further submitted that there is no live and proximate link between the date of arrest and the date of the detention order. Hence, on this ground, the present impugned detention order is also liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondents strongly opposed the habeas corpus petition by filing his counter. He would submit that though there was a delay in passing the impugned detention order, on that score alone, it cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and therefore prays for dismissal of the habeas corpus petition.



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above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.”

7. In view of the above, as pointed out by the counsel for the petitioner, the delay has not been satisfactorily explained, thereby vitiating and invalidating the detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.1/2024, dated 12.01.2024, passed by the second



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respondent is set aside. The detenu, viz., Kakkappan @ Karthick, son of (Late) Nallaiyan, aged about 30 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[A.D.J.C., J.] [K.R.S., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Madurai Bench of Madras High Court,
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