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H.C.P.(MD)NO.1205 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1205 of 2024

Siva @ Panneerselvam

... Petitioner / Detenu

Vs.

1. State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

Prayer: Habeas Corpus petition is filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in M.H.S.Confdl No.09/2004 dated 07.02.2024 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu ie. Siva @ Panneerselvam, aged about 22 years, S/o.Paramasivam, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.



For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. The detenue himself is the writ petitioner herein. He was detained as Goonda by the second respondent vide order dated 07.02.2024. According to the petitioner, representation for revocation of detention was submitted through the jail authority on 14.09.2024. The grievance of the petitioner is that the representation has not been considered till date.

3. In the proforma submitted by the learned Additional Public Prosecutor, it is claimed that no representation was received from the writ petitioner. However, in the counter affidavit filed by the detaining authority, it is stated taht there was no delay in considering the representation sent on behalf of the detenu. We find a clear contradiction in the stand taken by the respondents.



4. We therefore have to proceed on the premise that the claim of the petitioner that he had submitted representation is not controverted. In as much as the order disposing the representation has not been produced before us, we hold that the right guaranteed to the detinue under Article 22 of the Constitution of India has been breached. One of the rights guaranteed under the Constitution of India is that the detinue is entitled to submit representation seeking revocation of detention. As and when such representation is submitted, it should be disposed of as expeditiously as possible. In this case, even though it is admitted in the counter affidavit that the representation has been received, the fact remains that no order has been passed. The petitioner has also enclosed a copy of the representation in the typed set of papers filed by him. We hold that the continued detention is illegal. The petitioner is set at liberty forthwith unless he is required in some other cases. This Habeas Corpus petition is allowed accordingly.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)

14th November 2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU



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To:

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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