



H.C.P.(MD)No.1499 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2024

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HON'BLE MR JUSTICE K.RAJASEKAR

H.C.P.(MD)No.1499 of 2023

Muthulakshmi

.. Petitioner /
Wife of the Detenu

Vs.

- 1.The Secretary to Government
Cooperation Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maaligai
Secretariat, Chennai 600 009.
- 2.The Additional Secretary to Government
Ministry of Consumer Affairs,
Food and Public Distribution (Department of Consumer Affairs)
Government of India
Room No.270 Krishi Bhavan
New Delhi 110
- 3.The District Magistrate and District Collector
Virudhunagar District, Virudhunagar
- 4.The Inspector of Police,
Civil Supplies CID
Virudhunagar District



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5.The Superintendent of Central Prison,
Central Prison,
Madurai District.

.. Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records in pursuant to the proceedings of the 3rd respondent in Detention Order in Cr.M.P.No.32/2023 dated 18.11.2023 quash the same and consequently direct the respondents to produce the detenu, namely Marikalai, S/o.Selvaraj aged 43 years who is now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner	: Mr.K.Sathishkumar
For Respondents	: (*)Mr.A.Thiruvadikkumar Additional Public Prosecutor For R1, R3 to R5 Mr.A.Srinivasan Central Government Standing Counsel For R2

ORDER

(Order of the Court was made by A.D.JAGADISH CHANDIRA, J.)

This habeas corpus petition has been filed by the wife of the detenu, namely, Marikalai, son of Selvaraj, aged about 43 years, against the detention order passed by the second respondent, in Cr.M.P.No.32/2023 dated 18.11.2023 branding him as “Black Marketeer” as contemplated under Section 3(1) read with Section 3(2)(ia) of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980).

2. Though several grounds have been raised challenging the impugned

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detention order, Mr.K.Sathishkumar, learned counsel for the petitioner, mainly contends that there is enormous delay in considering the petitioner's representation, which would vitiate the impugned order of detention as per Articles 21 and 22 of the Constitution of India. According to the learned counsel, there is no material to arrive at the subjective satisfaction, which shows lack of application of mind on the part of the Detaining Authority, while passing the impugned order of detention.

3. Per contra, Mr.A.Thiruvadikumar, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, contended that the detenu in this case is having previous cases and in the ground case, he was found in possession of 60 kgs of PDS rice. Only after satisfying with the materials furnished by the Sponsoring Authority and in order to prevent the detenu from indulging in similar activities in future, which are prejudicial to the maintenance of public order, the impugned detention order has been passed by the Detaining Authority and there is no illegality or irregularity in the impugned order of detention warranting interference of this Court.

4. We have heard the rival submissions and perused the materials placed on record.



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5. It is seen from the proforma furnished by the learned Additional Public Prosecutor that the representation of the petitioner was received on 27.11.2023. Remarks were called for on 29.11.2023 and it was received on 14.12.2023. The Deputy Secretary dealt with the matter on 27.12.2023. The concerned Minister dealt with the matter on 29.12.2023 and the representation came to be rejected on 29.12.2023. It is seen that in between 27.11.2023 and 29.12.2023, there was a delay of 10 days, after excluding the Government Holidays of five days, in considering the petitioner's representation.

6. At this juncture, it is useful to refer the decision of the Apex Court in the case of *Rajammal vs. State of Tamil Nadu and another*, reported in 1999 (1) SCC 417, wherein the Apex Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of any indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner.

7. In the case on hand, as stated supra, the delay of 10 days have not been properly explained by the respondents. Hence, in our considered view, the detention order is liable to be set aside on the grounds as stated above by following the decision of the Apex Court referred supra.

8. In fine, the Habeas Corpus Petition is allowed. The order of detention passed



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by the second respondent, in Cr.M.P.No.32/2023 dated 18.11.2023 is set aside.

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Consequently, the detenu, namely, Marikalai, son of Selvaraj, aged about 43 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS I)

**(*)Corrected as per the letter dated 14.09.2024
Submitted on behalf of 2nd Respondent**

Sd/-

Assistant Registrar(CO)

// True Copy //

/10/2024

Sub Assistant Registrar()

RR

To

To be substituted to the order which is already despatched on 04.06.2024

1.The Secretary to Government
Cooperation Food and Consumer Protection Department
2nd Floor, Namakkal Kavignar Maaligai
Secretariat, Chennai 600 009.

<https://www.mca.gov.in> 2.The Additional Secretary to Government



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Ministry of Consumer Affairs,
Food and Public Distribution (Department of Consumer Affairs)
Government of India
Room No.270 Krishi Bhavan
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3.The District Magistrate and District Collector
Virudhunagar District, Virudhunagar

4.The Inspector of Police,
Civil Supplies CID, Virudhunagar District

5.The Superintendent of Central Prison,
Central Prison, Madurai District.

6.The Joint Secretary to Government,
Public Law & Order
Fort St.George, Chennai-9

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

+1 CC to M/s.K.SATHISH KUMAR, Advocate (SR-17508[F] dated 01/04/2024)



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01.04.2024

WIRK (08/05/2024) 7P / 9C

MK (10/10/2024) 7P / 9C

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