



HCP.No.840 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.840 of 2025

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... Petitioner/ wife of the detenue

Vs.

1. The Additional Secretary to
Government of India
Ministry of Consumer Affairs Food
and Public Distribution, Department
of Consumer Affairs, Room No. 270
Krishi Bhavan, New Delhi 110 001

2.The Principal Secretary to the
Government,
Food and Consumer Protection
Department, II Floor Namakkal
Kavingnar Maaligai, Secretariat,
Chennai 600 009.

3.The District Collector and District
Magistrate
Krishnagiri Collectorate, Krishagiri
District.

4.The Superintendent



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Central Prison, Salem.

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5.The Superintendent of Police
Krishnagiri SP Office Building,
Krishnagiri District.

6.The Inspector of Police
CS CID, Krishnagiri Unit,
Krishnagiri District
Crime No.57 of 2025.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records leading to the detention of the petitioner's husband namely Dhandapani S/o. Govindaraj aged about 39 years vide detention order dated 20.03.2025 on the file of the 3rd respondent herein made in the proceedings in SC No. 08/2025 (CS) and to quash the same and consequently direct the respondent herein to produce the body and person of the detainee before this court and thereafter set him at liberty from central prison, salem.

For Petitioner : Mr.R.Thamarai Selvan

For Respondents : Mr.K.Ramanamoorthy
Senior Panel Counsel for R1

Mr.E.Raj Thilak
Additional Public prosecutor
for R2 to R6

ORDER



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M.S.RAMESH, J.

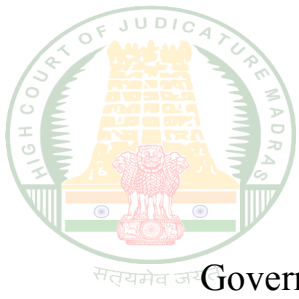
AND

V. LAKSHMINARAYANAN, J.

The petitioner, who is the wife of the detenu Dhandapani S/o. Govindaraj aged about 39 years, confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the third respondent dated 20.03.2025 issued against her husband, branding him as "Black Marketeer" under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Central Act No.7 of 1980].

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 focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 22.03.2025. According to the learned counsel for the petitioner, though the representation is dated 22.03.2025, the same has been received by the



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Government only on 25.03.2025; the file has been dealt with by the Joint Secretary on 23.04.2025 and the Minister concerned dealt with the file only on 25.04.2025 and the Rejection Letter was prepared on 25.04.2025 and sent to the detenu on 25.04.2025. It is the further submission of the learned counsel that the delay of 21 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, reported in (1999) 1 SCC 417.***

4. As per the submission of the learned counsel for the petitioner and on perusal of the records, we find that the representation of the petitioner is dated 22.03.2025, which was received by the Government on 25.03.2025 and further, the Minister concerned had dealt with the file of the detenu only on 25.04.2025 and the Rejection Letter was sent to the detenu on 25.04.2025. Thus, we find there is a considerable delay of 21 days in considering the representation of the petitioner. This delay of 21 days in considering the petitioner's representation remains unexplained.

5. It is trite law that the representation should be very expeditiously



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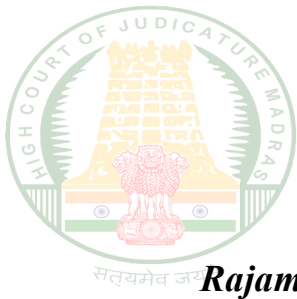
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considered and disposed of with a sense of urgency and without avoidable delay. Any unexplained delay in the disposal of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. From the records produced, we find that no acceptable explanation has been offered for the delay of 21 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

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



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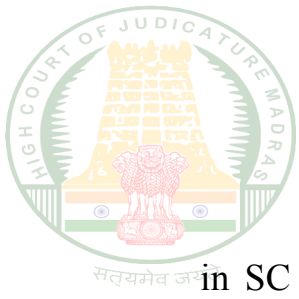
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Rajammal's case, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the authorities concerned. But, here the inordinate delay of 21 days has not been properly explained at all.

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 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 third respondent,



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in SC No. 08/2025 (CS), dated 20.03.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Dhandapani S/o. Govindaraj aged about 39 years, confined at Central Prison, Salem, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R., J] [V.L.N., J]

17.06.2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No
Anu

To

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8.The Public Prosecutor,
High Court, Madras.

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