

(2006) 07 MAD CK 0098

In the Madras High Court

Case No : Habeas Corpus Petition No. 442 of 2006

K. Eswaran

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 04-07-2006

Acts Referred:

Citation : (2006) 07 MAD CK 0098

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : V. Parthiban, for the Appellant; Babu Muthu Meeran, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the brother of the detenu by name Siva @ Sivasankaran, who was detained as a ""Bootlegger"" as

contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 11.4.2006,

challenges the same in this Petition.

2. Heard learned Counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned Counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which

vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show

that the representation of the detenu dated 1 7.4.2006 was received by the

Government on 19.4.2006. The remarks were called for on 20.4.2006. The said representation was received by the Collectorate from the Government on 21.4.2006 and parawar remarks were called for from sponsoring authority on 24.4.2006 and the remarks were received from sponsoring authority on 19.5.2006. Thereafter, the remarks were received by the Government on 25.5.2006 and the File was submitted on 25.5.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 26.5.2006 and finally, the Minister for Prohibition and Excise passed orders on the same date i.e. on 26.5.2006. The rejection letter was prepared on 29.5.2006 and the same was sent to the detenu on 29.5.2006 itself and served to him on 1.6.2006. As rightly pointed out by the learned Counsel for the petitioner, though the remarks were called for from sponsoring authority on 24.4.2006, the remarks were received from the sponsoring authority on 19.5.2006 only and there is no explanation at all for taking time for receiving remarks from sponsoring authority till 19.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for receiving the remarks from the sponsoring authority is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.