



HCP.No.544/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.544/2023

Venkatesan @ Sotting Venkatesan

..

Petitioner

Versus

1.The Additional Chief Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
O/o.The Commissioner of Police
Greater Chennai.

3.The Superintendent of Prison
Puzhal Central Prison, Chennai District.

4.The Inspector of Police
Adambakkam Police Station
Chennai District.

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Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records connected with the detention order in BCDFGISSSV.NO.347/2022 on 10.10.2022 on the file of the respondent No.2 and quash the same and direct the respondents to produce the body and person of petitioner son one named Venkatesan @ Sotting Venkatesan S/o. Muniyan aged about 32 years now confined at Central prison Puzhal before this Honble Court and set him at liberty .

For Petitioner : Mr.P.Muthamizh Selvakumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

(1)The petitioner, who is the detenu himself, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 10.10.2022 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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(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 submitted that there is a delay in passing the order of detention. In the present case, though the detenu was arrested on 18.08.2022, the Detention Order was passed only on 10.10.2022.

(4) The Hon'ble Supreme Court in the case of ***Sushantha Kumar Banik Vs. State of Tripura and Others*** reported in ***AIR 2022 SC 4715***, has dealt with similar situation and has held in paragraph No.14 as follows:-

"In view of the above subject of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings."



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(5) The Hon'ble Supreme Court was persuaded to allow the Appeal filed before it mainly on the ground that delay in passing the Order of Detention from the date of the proposal would snap the "live and proximate link" between prejudicial activities and the purpose of detention. Therefore, failure on the part of the Detaining Authority in explaining such delay as in the present case also is a valid ground for quashing the Detention Order.

(6) In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 10.10.2022 in Memo.No.347/BCDFGISSSV/2022, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Venkatesan @ Sotting Venkatesan, S/o.Muniyan, aged about 32 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
04.10.2023

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To

- 1.The Additional Chief Secretary to Government
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Secretariat, Chennai 600 009.
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- 5.The Public Prosecutor
High Court, Madras.



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AND
SUNDER MOHAN, J.,

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