



HCP No.1144 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.1144 of 2022

Savurirajan

... Petitioner (Detenu)

-VS-

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

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

3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.

4.The Superintendent of Police,
Central Prison, Vellore.

5.The Inspector of Police,
Vandavasi South Police Station,
Tiruvannamalai District.

... Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the in connection with the order of detention passed by the second respondent dated 08.06.2022 in D.O.No.64/2022-C2 petitioner/detenu Savurirajan, male aged 29 years S/o.Perumal, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner .. Mr.M.Mohamed Saifulla
for Mr.D.Balaji

For Respondents .. Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.NIRMAL KUMAR, J.]

Captioned Habeas Corpus Petition ['HCP'] has been filed in this Court on 16.06.2022 assailing an order of detention dated 08.06.2022 bearing reference D.O.No.64/2022-C2 [hereinafter referred as 'impugned detention order' for the sake of convenience and clarity] made by the second respondent i.e. jurisdictional District Collector [hereinafter referred as 'detaining



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authority' for the sake of convenience and clarity]. To be noted the fifth respondent who is the jurisdictional Inspector of Police is the Sponsoring authority.

2.The detenu is the petitioner herein. The impugned detention order has been made by the detaining authority on the premise that the detenu is a Goonda within the meaning of Section 2(f) of The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders Slum grabbers and Video Priates Act, 1982 (Tamil Nadu Act 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience]. There is one adverse case and one ground case in Crime No.100 of 2022 on the file of the Vandavasi South Police Station for the alleged offence under Sections 294(b), 341, 324, 307 IPC r/w. Section 3(1) of Prevention of Damage to Public Property Act, 1984.

3.Though various grounds were raised to assail the impugned detention order, the learned counsel for the petitioner mainly focused his argument on three grounds. Firstly, on the point of delay. According to the learned



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counsel for the petitioner, the detenu was arrested on 19.04.2022 and the impugned detention order was passed on 08.06.2022 with a delay of around 50 days. Secondly, the learned counsel for the petitioner submits that the petitioner is an illiterate, the remand order and the remand extensions orders dated 02.05.2022, 16.05.2022 and 30.05.2022 [which were given in the booklet in Page Nos.61 to 67] were not translated. Thirdly, the learned counsel submits that the similar case referred by the detaining authority does not include destruction of public property and in view of the same, there is no similarity. Therefore, the detaining authority without arriving at the subjective satisfaction passed the impugned detention order. Hence, the impugned detention order is liable to be quashed.

4.The learned Additional Public Prosecutor submits that though there was a delay in passing the impugned detention order, it is not necessary that the delay would automatically enure into revocation of the impugned detention order. In this case, due to procedures followed, processing the file at various stages and scrutinizing by the authorities lead to the delay and the delay properly explained. With regard to the remand order and remand



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extension orders, the petitioner had not sent any representation and made any request for the first time before this Court such contention made which cannot be considered. He further submits that the petitioner is a habitual offender, history sheeter and hence, his detention is necessary. Hence, he strongly opposes this petition.

5.This Court on the submissions and on perusal of the materials seen that there was an inordinate delay in passing the impugned detention order. The detenu was arrested on 19.04.2022 and the impugned detention order was passed on 08.06.2022. The delay in making the detention order when put in legal parlance would read as snapping of 'live and proximate link' between the grounds of detention and purpose of detention. As regards this proposition, we draw inspiration from the case of **Sushanta Kumar Banik vs. State of Tirupura and others**, rendered by the Hon'ble Supreme Court on 30.09.2022 reported in **2022 SCC Online SC 1333**, wherein it is held that if there is unreasonable delay between the date of the order of detention and actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless



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satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. In the present case, it lacks. Likewise, with regard to similar case referred, it does not include the offence of Prevention of Damage to Public Property Act, 1984. Added to it, the similar case bail order referred in detention order pertains to Crl.M.P.No.477 of 2022, on the other hand the similar case bail order given in the booklet pertains to Crl.M.P.No.705 of 2022 which would clearly show non-application of mind by the detaining authority. Further, the remand order and the remand extension orders [in Page Nos.61 to 67 of booklet] are in English and no tamil translation given which affects the petitioner's right to make effective representation. This denial will hold the order of detention illegal and not in accordance with the procedure contemplated under Law. Thus, from the above reasons, the impugned detention order cannot be sustained.



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6.In the result, the Habeas Corpus Petition is allowed and the detention order dated 08.06.2022 bearing reference D.O.No.64/2022-C2 is set aside and the petitioner/detenu Savurirajan, aged 29 years, son of Perumal is directed to set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
30.01.2023

Index:Yes

Neutral Citation : Yes/No
cse

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
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Chennai – 600 009.
- 2.The District Collector and
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5. The Inspector of Police,
Vandavasi South Police Station,
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**M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.**

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