



HCP.No.1036/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1036/2023

Shakila

Versus

Petitioner

- 1.The State of Tamil Nadu
rep.by the Secretary
Prohibition & Excise Department
Fort St George, Chennai 600 009.
- 2.The District Collector & District Magistrate
Mayiladuthurai, Mayiladuthurai District.
- 3.The Superintendent of Prison
Central Prison, Tiruchirappalli
Thiruchirappalli District.
- 4.The Superintendent of Police
Mayiladuthurai, Mayiladuthurai District.
- 5.The Inspector of Police
Manalmedu Police Station
Mayiladuthurai, Mayiladuthurai 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 records of the detention order dated 02.05.2023 in detention order in C.O.C. No.22/2023 on the file of the 2nd respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Sozhiyankottagam Kalaivanan @ Kalaivanan, S/o.Anbazzhagan, Hindu, aged about 38 years who is now confined in Central Prison, Thiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

(1)The petitioner, wife of the detenu Shozhiyankottagam Kalaivanan @ Kalaivanan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 02.05.2023 slapped on her husband, 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].

(2)Heard the learned counsel for the petitioner and the learned Additional



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Public Prosecutor appearing for the respondents.

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(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 23.03.2023, the Detention Order was passed only on 02.05.2023.

(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.21 as follows:-

"In the present case, the circumstances indicate that the detaining authority after the receipt of the proposal from the sponsoring authority was indifferent in passing the order of detention with greater promptitude. The "live and proximate link" between the grounds of detention and the purpose of detention stood snapped in arresting the detenu. More importantly the delay has not been explained in any manner & though this point of delay was specifically raised & argued before the High Court as evident from Para 14 of the impugned judgment yet the High Court has not recorded any finding on the same."

(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



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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 02.05.2023 in COC.No.22/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Shozhiyankottagam Kalaivanan @ Kalaivanan, S/o. Anbazhagan, aged about 38 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.]
11.10.2023

AP

To



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6. The Public Prosecutor
High Court, Madras.

S.S.SUNDAR, J.,



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SUNDER MOHAN, J.,

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