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HCP.No.1112/2023

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.1112/2023

Pandeeshwari

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Petitioner

Versus

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

2.The Commissioner of Police
Greater Chennai.

3.The Superintendent,
Central Prison, Puzhal, Chennai-66.

4.The Inspector of Police
Prohibition Enforcement Wing
Washermenpet, Greater Chennai Police.

..

Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records relating to the detention order passed by the 2nd respondent pertaining to the order made in BCDFGISSSV No.153/2023 dated 08.05.2023 in detain the detenu



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under 2[e] of Tamil Nadu Act 14 of 1982, as a Drug Offender and quash the same and direct the respondent to produce the detenu Selvam, son of Chelladurai aged about 43 years who is detained at Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.O.Chumbulingam
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

(1)The petitioner, brother of the detenu Selvam, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 08.05.2023 slapped on her brother, branding him as "Drug Offender" 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 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



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detention. In the present case, though the detenu was arrested on 29.03.2023, the Detention Order was passed only on 08.05.2023.

(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 proximate link" between prejudicial activities and the purpose of



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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 08.05.2023 in BCDFGISSSV No.153/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Selvam, S/o.Chelladurai, aged about 43 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



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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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