



HCP.No.1500 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

Coram

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

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

H.C.P.No.1500 of 2022

Muthukannu
W/o.Anbalagan

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department ,
Secretariat, Fort St. George,
Chennai - 600 009.

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

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

4.The Superintendent,
Central Prison, Coimbatore,
Coimbatore District.

5.State rep. by
The Inspector of Police,
Palladam Police Station,
Tiruppur District.

... Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 26.07.2022 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.42/Goonda/2022, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Kida @ Vinoth, S/o.Anbalagan aged 28 years before this Court and set him at liberty.

For Petitioner : Mr.W.Camyles Gandhi
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity and convenience] has been filed by the mother of the detenu assailing a 'detention order dated 26.07.2022 bearing reference Cr.M.P.No.42/Goonda/2022' [hereinafter 'impugned detention order' for the sake of convenience and clarity] made by the 'jurisdictional District Magistrate/District Collector, who is the second respondent' [hereinafter 'detaining authority' for the sake of convenience and clarity].

2.In the case on hand, learned counsel for petitioner submits that the ground case which is the substratum of the impugned detention order is one where the alleged occurrence was on 04.05.2022 and the date of arrest is



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07.05.2022 but the impugned detention order has been made only on 26.07.2022 more than two and half months later. Learned counsel for petitioner submits that live and proximate link between grounds of detention and purpose of detention has snapped.

3.As regards the aforesaid point of live and proximate link between grounds of detention and purpose of detention snapping, we draw inspiration from a recent case law i.e., **Sushanta Kumar Banik's** case [**Sushanta Kumar Banik Vs. State of Tripura & Ors.** reported in 2022 **LiveLaw (SC) 813 : 2022 SCC OnLine SC 1333**]. **Sushanta Kumar Banik's** case arose under 'Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988' [hereinafter 'PIT NDPS Act' for the sake of brevity] in Tripura. From a reading of **Banik's** case, it comes to light that there are two facets to the point. One facet is 'unreasonable delay' and the other facet is 'unexplained delay'. It also emerges clearly from **Banik's** case law that this point has to be tested on a case to case basis.

4.In the case on hand, we tested the point on the facts and circumstances of this case. We find that no explanation, much less an



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acceptable explanation which is tenable has been given for making of the impugned detention order more than two and half months after the alleged date of occurrence/date of arrest. It is clear as daylight that the ground case which is the substratum of the impugned detention order has become stale. This point is good enough to interfere qua the impugned detention order. Therefore, we deem it not necessary to dilate or delve into facts.

5.Apropos, the sequitur is, captioned HCP is allowed, the detention order dated 26.07.2022 bearing reference Cr.M.P.No.42/Goonda/2022 made by the second respondent is set aside and the detenu Thiru.Kida @ Vinoth, aged 28 years, son of Thiru.Anbalagan is directed to be 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.)
28.02.2023

Index:Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Coimbatore.



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WEB COPY To

- 1.The Secretary to Government,
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- 5.The Inspector of Police,
Palladam Police Station,
Tiruppur District.
- 6.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



WEB COPY



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**M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.**

cse

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