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HCP No.1694 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

Coram

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

H.C.P. No.1694 of 2022

Peruri Seenu

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai – 600 007.

3.The Inspector of Police,
C-2 Elephant Gate Police Station,
Chennai – 600 079.

4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

.. Respondents



HCP No.1694 of 2022

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records pertaining to the in Memo.No.186/BCDFGISSSV/2022 dated 06.07.2022 on the file of the 2nd respondent herein and set aside the same and direct the respondent herein to produce the petitioner Peruri Seenu S/o. Peruri Sathyanarayana aged 33 years now confined in Central prison Puzhal Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by Mr.M.Sylvester John

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by the detenu assailing a 'preventive detention order dated 06.07.2022 bearing reference No.186/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience]. To be noted, the third respondent is the sponsoring authority and the second respondent is the detaining authority as impugned detention order has been made by the second respondent.



HCP No.1694 of 2022

WEB COPY

2. Impugned detention order has been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Drug Offender' within the meaning of Section 2(e) of Act 14 of 1982.

3. There is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.216 of 2022 on the file of C2 Elephant Gate Police Station for alleged offences under Sections 8(c) & 20(b)(ii)(C), 25, 29(2)(a) of 'Narcotic and Drugs and Psychotropic Substances Act, 1985' [hereinafter 'NDPS Act' for the sake of convenience and brevity]. Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.



HCP No.1694 of 2022

WEB COPY

4.Mr.C.K.M.Appaji, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John learned counsel for respondents are before us.

5.Learned counsel for petitioner submits that 'live and proximate link' between the grounds of detention and purpose of detention has snapped as date of remand in the ground case is 30.04.2022 but the impugned detention order has been made only on 06.07.2022.

6.Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, submits to the contrary by saying that materials had to be collected and time was consumed for the same. Considering the facts and circumstances of the case and nature of ground case, we find that this explanation is unacceptable.

7.We remind ourselves of *Sushanta Kumar Banik's* case [*Sushanta Kumar Banik Vs. State of Tripura & others reported in 2022 LiveLaw*



HCP No.1694 of 2022

(SC) 813 : 2022 SCC OnLine SC 1333]. To be noted, **Banik** case law arose under 'Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988' [hereinafter 'PIT NDPS Act' for the sake of brevity] in Tirupura, wherein after considering the proposal by the Sponsoring Authority and after noticing the trajectory the matter took, Hon'ble Supreme Court held that the 'live and proximate link between grounds of detention and purpose of detention snapping' point should be examined on a case to case basis. Hon'ble Supreme Court has held in **Banik** case law that this point has two facets. One facet is 'unreasonable delay' and other facet is 'unexplained delay'. We find that the captioned matter falls under latter facet i.e., unexplained delay.

8.Before concluding, we also remind ourselves that preventive detention is not a punishment and HCP is a high prerogative writ.

9.Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 06.07.2022 bearing reference No.186/BCDFGISSSV/2022 made by the second respondent is set aside



HCP No.1694 of 2022

and the detenu Thiru.Peruri Seenu, aged 33 years, son of Thiru.Peruri Sathyanarayana, is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
08.03.2023

Index: Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai

To

- 1.The Secretary to Government
Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai City,
Vepery, Chennai – 600 007.
- 3.The Inspector of Police,
C-2 Elephant Gate Police Station,
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- 4.The Superintendent of Prison,
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- 5.The Public Prosecutor,
High Court of Madras,
Chennai - 104.

6/7



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HCP No.1694 of 2022

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

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H.C.P.No.1694 of 2022

08.03.2023