



HCP.No.1578/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1578/2023

Muthukumar

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Petitioner

Versus

1.State rep.by

The Secretary to Government

Home, Prohibition & Excise Department

Fort St George, Chennai-9.

2.The District Collector & District Magistrate

Villupuram District, Villupuram.

3.The Superintendent of Police

Villupuram District, Villupuram.

4.The Superintendent of Prison

Central Prison, Cuddalore.

5.The Inspector of Police

Vikravandi Police Station

Villupuram.

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Respondents



HCP.No.1578/2023

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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 in RC.No.C2/20618/2023 dated 18.03.2023 on the file of the 2nd respondent and quash the detention as illegal and direct the respondents to produce the detenu Thiru.Muthu, S/o.Irusan, aged about 26 years, now confined in Central Prison, at Cuddalore before this Court and set him at liberty forthwith.

For Petitioner : Ms.S.Sengodi

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 Muthu, aged 34 years, S/o.Irusan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 09.03.2023 slapped on his brother, 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



HCP.No.1578/2023

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 raised the following two grounds. Firstly, the delay in passing the Detention Order and secondly, the adverse case referred by the Detaining Authority is stale which is registered in the year 2022. In the present case, though the detenu surrendered on 09.02.2023, the Detention Order was passed only on 18.03.2023.

(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.14 as follows:-

"In view of the above subject of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and



HCP.No.1578/2023

frustrate the entire proceedings.”

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(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 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) Further, a perusal of the Grounds of Detention, it is seen that the Detaining Authority had stated about the involvement of the detenu in an adverse case, namely, the case registered by Vikravandi Police Station in Cr.No.100/2022 for the alleged offences u/s.147, 148, 294[b], 323, 324 and 506[ii] IPC altered into one u/s.147, 148, 294[b], 323, 324, 506[ii] and 307 of IPC. It is seen that the said adverse case relied upon by the Detaining Authority is stale and had been registered in the year 2022. Hence, on the above grounds, the Detention Order is liable to be quashed.

(7) In view of the aforesaid reasons, the detention order passed by the 2nd



HCP.No.1578/2023

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respondent dated 18.03.2023 in No.C2/20618/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Muthu, S/o.Irusan, aged about 26 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.]
06.10.2023

AP

To

1. The Secretary to Government
Home, Prohibition & Excise Department
Fort St George, Chennai-9.
2. The District Collector & District Magistrate
Villupuram District, Villupuram.
3. The Superintendent of Police
Villupuram District, Villupuram.
4. The Superintendent of Prison
Central Prison, Cuddalore.
5. The Inspector of Police
Vikravandi Police Station
Villupuram.
6. The Public Prosecutor
High Court, Madras.



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HCP.No.1578/2023

S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

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H.C.P.No.1578/2023

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