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H.C.P.No.1681 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

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Selvi

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep. By its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
- 2.The Commissioner of Police,
Coimbatore City,
Coimbatore District.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.
- 4.The Inspector of Police,
Singanallur Police Station,
Coimbatore District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a writ of habeas corpus to call for the records relating to the detention order passed in C.No.82/G/IS/2022 dated 07.12.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son



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S.Neeladevan, S/o.Sekar, aged about 24 years the detenu and to set him at liberty.

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For Petitioner : Mr.P.M.Jayachandran
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

The petitioner, mother of the detenu S.Neeladevan, has come forward with this petition challenging the detention order passed by the second respondent dated 07.12.2022 slapped on her son, branding him as "Goonda" 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 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



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passing the order of detention. In the present case, though the detenu was arrested on 01.11.2022, the Detention Order was passed only on 07.12.2022.

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:-

"21. 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



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"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. In view of the aforesaid reason, the detention order passed by the second respondent dated 07.12.2022 in C.No.82/G/IS/2022, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., S.Neeladevan, S/o.Sekar, aged about 24 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.)
12.10.2023

Index : Yes / No

Neutral Citation: Yes/No

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To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.

2.The Commissioner of Police,
Coimbatore City, Coimbatore District.

3.The Superintendent of Prison,
Central Prison, Coimbatore,
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4.The Inspector of Police,
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5.The Public Prosecutor, High Court, Madras.



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