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HCP No.2286 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR**

and

**THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

H.C.P.No.2286 of 2022

S.Molavi

W/o.Subramaniam

..

Petitioner/Mother of Detenu

Vs.

1. The State of Tamil Nadu  
Rep. by its Secretary to Government  
Home, Prohibition and Excise Department  
Fort. St.George  
Chennai-600 009
2. The District Collector and District Magistrate  
Ariyalur District Collectorate  
Ariyalur – 621 704
3. The Superintendent of Police  
Ariyalur District, Ariyalur
4. The Superintendent of Police  
Trichy Central Prison, Trichy- 620 020
5. Inspector of Police  
Jayankondam Police Station  
Ariyalur 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 produce the body of the detenu by name Manikandan, son of Subramaniyan, aged 39 years, presently confined at Central Prison, Trichy before this Court and set him at liberty forthwith, after calling for the records pertaining to the detention order dated 15.05.2022 in Cr.M.P.No.24/2022 passed by the second respondent and quash the same.

For Petitioner : Mr.V.T.Narendiran  
for Mr.G.Paul Einstein

For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor

### **ORDER**

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

Captioned 'Habeas Corpus Petition' ['HCP'] has been filed in this Court on 07.11.2022 assailing a detention order dated 15.05.2022 bearing reference Cr.M.P.No.24/2022 by the 'second respondent' ('Detaining Authority' for the sake of brevity). To be noted, second respondent is the jurisdictional District Collector. It is further to be noted that fifth respondent, who is jurisdictional Inspector of Police, is the Sponsoring Authority.



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2. The aforementioned detention order which has been called in question in the captioned HCP shall hereinafter be referred to as 'impugned detention order' for the sake of convenience and clarity.

3. In and by the impugned detention order, the detenu has been clamped with preventive detention on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of '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].

4. It may not be necessary to dilate on facts owing to the short point on which the captioned matter turns.

5. Notwithstanding very many averments raised in the affidavit filed in support of captioned HCP, Mr.V.T.Narendiran, learned counsel representing the counsel on record for petitioner submits that 'live and proximate link' between the grounds of detention and purpose of detention had snapped. In support of this argument, learned counsel pointed out that the detenu has been



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secured / arrested on 25.03.2022 but the impugned detention order has been made only on 15.05.2022, more than 50 days later (51 days to be precise).

6. In response to the above argument, learned State Additional Public Prosecutor submitted that material had to be collected and the same had to be collated as there are as many as seven adverse cases.

7. We carefully considered the detention order.

8. Before proceeding further with discussion on the point urged, we remind ourselves of ***Sushanta Kumar Banik*** case [***Sushanta Kumar Banik Vs. State of Tripura & Ors.*** reported in ***2022 LiveLaw (SC) 813***]. ***Sushanta Kumar Banik Kumar*** 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. After noticing the trajectory the matter took from the time of recommendation by the Sponsoring Authority, Hon'ble Supreme Court held that this live and proximate link snapping between grounds of detention and purpose of detention point should be examined on a case to case basis. Besides this, Hon'ble Supreme Court also held that this point has two facets. One facet is, unreasonable delay and the other facet is unexplained delay. To put it differently, substratum of impugned detention



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order is stale.

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9. We carefully considered the adverse cases and the ground case. We do not find the cases to be so complex that the consumption of more than seven weeks for making the impugned detention order has been explained, much less adequately explained. Therefore, it comes across clearly that this is a case of unexplained delay qua the live and proximate link between grounds of detention and purpose of detention snapping. To put it differently, substratum of impugned detention order is stale.

10. The above point is good enough to dislodge the impugned detention order.

11. Before writing the concluding paragraph and dropping the curtains in the matter, we remind ourselves that preventive detention is not a punishment and HCP is a high prerogative writ.

12. Ergo, the sequitur is, the detention order dated 15.05.2022 bearing reference Cr.M.P.No.24 of 2022 by the second respondent is set aside and detenu Mr.Manikandan, Son of Mr.Subramaniyan, aged 39 years, now detained in Central Prison, Trichy is directed to be set at liberty forthwith unless required in connection with any other case/s.

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Captioned HCP ordered on above terms.

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(M.S.,J.)

(M.N.K.,J.)

07.02.2023

Neutral Citation : No

gpa

**P.S: Registry to forthwith communicate this order to jail authorities in Central Prison, Trichy.**

To

1. State of Tamilnadu  
Rep. by its Secretary to Government  
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Chennai-600 009
2. The District Collector and District Magistrate  
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Jayankondam Police Station  
Ariyalur District
6. The Public Prosecutor  
High Court, Madras.

**M.SUNDAR, J.,**

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*HCP No.2286 of 2022*

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

gpa

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