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H.C.P.No.12 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.12 of 2024

Bhavani

... Petitioner

Vs.

1. The Government of Tamil Nadu
Represented by its Additional Secretary
to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2. The Commissioner of Police
Greater Chennai, Veppery, Chennai 07.

3. The Superintendent
Central Prison, Puzhal,
Chennai 600 066.

4. Inspector of Police
F-5, Choolaimedu Police Station,
Chennai

... Respondents



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Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, calling for the records relating to the proceedings of the 2nd respondent in BCDFGISSSV No.502/2023 dated 26.10.2023 against the petitioner's son Vidhankumar @ Vidhan, Male, aged about 24, S/o. Murugan and quash the same and consequently direct the respondents herein to produce the detenu who is detained under the Tamil Nadu Act 14 1982 currently confined in the Central Prison, Puzhal, before this Hon'ble Court and set him at liberty.

For petitioner : Mr. P. Surendran

For Respondents : Mr.A. Gokulakrishnan
Additional Public Prosecutor
Assisted by Aravind.C

ORDER

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

The petitioner, mother of the detenu Vidhankumar @ Vidhan, aged 24 years, S/o. Murugan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 26.10.2023, in No.502/BCDFGISSSV/2023, slapped on her son, branding him as "Drug Offender" as contemplated under Section 2(e) of the Tamil Nadu Act 14/1982.



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2. Heard the learned counsel for the petitioner, as well as 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 an inordinate delay in passing the order of detention.

4. In the instant case, the detenu was arrested on 15.09.2023 and thereafter, the detention order came to be passed on 26.10.2023. This fact is not disputed by the learned Additional Public Prosecutor.

5. In the case of '*Sushanta Kumar Banik Vs. State of Tripura*', reported in '*2022 LiveLaw (SC) 813*', when there was an inordinate delay from the date of proposal till passing of the detention order and likewise, between the date of detention order and the actual arrest, the Hon'ble Supreme Court had held that the live and proximate link, between the grounds and the purpose of detention, stands snapped in arresting the detenu. The relevant observation of the Hon'ble Supreme Court is extracted hereunder:-



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“20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.”

6. Drawing inspiration from the judgment in ***Sushanta Kumar Banik's case***, a co-ordinate Bench of this Court in the case of '***Gomathi Vs. Principal Secretary to Government and Others***', reported in '***2023 SCC OnLine Mad 6332***', had held that when there is an inordinate delay from the date of arrest/date of proposal till the order of detention, the live and proximate link between them would also stand snapped and thereby, had quashed the detention order on this ground.



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7. In yet another case i.e., in '*Nagaraj Vs. State of Tamil Nadu*', reported in '**(2018) 3 MWN (Cri) 428**', this Court had held that the delay of 36 days in passing the detention order after the arrest of the detenu would snap the live and proximate link between the grounds and purpose of detention. Hence, in view of the unexplained and inordinate delay in passing the order of detention, after the arrest of the detenu, the detention order in the present case, is liable to be quashed.

8. Hence, for the aforesaid reason, the detention order passed by the 2nd respondent dated 26.10.2023, in No.502/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vidhankumar @ Vidhan, aged 24 years, S/o. Murugan, is directed to be set at liberty forthwith unless he is required in connection with any other case.

**[M.S.R., J] [S.M., J]
01.03.2024**

bga

Index : Yes / No

Neutral Citation : Yes / No



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To

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1. The Additional Secretary
to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.
2. The Commissioner of Police
Greater Chennai, Veppery, Chennai 07.
3. The Superintendent
Central Prison, Puzhal,
Chennai 600 066.
4. Inspector of Police
F-5, Choolaimedu Police Station,
Chennai
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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