



WEB COPY



HCP.No.120 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.120 of 2024

Mani

... Petitioner / father of the detenue

Vs.

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

2.The Commissioner of Police,
Salem City,
Salem.

3.The Superintendent of Prison,
Central Prison,
Salem District.

4.The Inspector of Police,
Salem Railway Police Station,
Salem District.

... Respondents



HCP.No.120 of 2024

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed in C.M.P.No.83/Drug Offender/Salem City/2023 dated 30.08.2023 passed by the second respondent and set aside the same and direct the respondents to produce the petitioner's son by name Vinoth Kumar @ Auto Vinoth, son of Mani, aged about 30 years before this Court now confined at Central Prison, Salem and set him at liberty.

For Petitioner : Mr.C.Deepak Kumar

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

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

The petitioner herein, who is the father of the detenu viz., Vinoth Kumar @ Auto Vinoth, son of Mani, aged about 30 years, has come forward with this petition challenging the detention order passed by the second



HCP.No.120 of 2024

respondent dated 30.08.2023 slapped on his son, branding him as "Drug Offender" 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, 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 22.07.2023 and thereafter, the detention order came to be passed on 30.08.2023. This fact is not disputed by the learned Additional Public Prosecutor.



HCP.No.120 of 2024

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:-

“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



HCP.No.120 of 2024

8. Accordingly, the detention order passed by the second respondent on 30.08.2023 in C.M.P.No.83/Drug Offender/Salem City/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vinoth Kumar @ Auto Vinoth, son of Mani, aged about 30 years, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

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

29.02.2024

Index: Yes/No

Neutral Citation: Yes/No

Anu

To

1.Secretary to Government, (Home),
Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Salem City,
Salem.

3.The Superintendent of Prison,
Central Prison,
Salem District.



WEB COPY



HCP.No.120 of 2024

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

Anu

H.C.P.No.120 of 2024

29.02.2024