



WEB COPY



HCP.No.155 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM :

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

H.C.P.No.155 of 2024

S.Kala ... Petitioner/ mother of the detenu
Vs.

1.The Assistant Secretary to Government,
Secretariat,
Chennai-09.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Jail Puzhal,
Chennai.

4.The Inspector of Police,
K-11, C.M.B.T Police Station,
(Law & Order)
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records of the detention made in No.656/BCDFGISSSV/2023 dated 09.12.2023 passed by the Commissioner of Police, Greater Chennai, the second respondent herein and set aside the same and direct the respondents to produce the detenu



HCPNo.155 of 2024

before this Court and set the detenu Thiru. Vinothkumar, son of Chandiran, aged about 23 years at liberty forthwith.

For Petitioner : Mr.C.Srinivasan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
High Court of Madras
assisted by
Mr.C.Aravind

ORDER

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

The petitioner herein is the mother of the detenu viz., Vinothkumar, son of Chandiran, aged about 23 years, has come forward with this petition challenging the detention order passed by the second respondent dated 09.12.2023 slapped on her 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].



HCP.No.155 of 2024

WEB COPY

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 05.11.2023 and thereafter, the detention order came to be passed on 09.12.2023. 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:-



HCP.No.155 of 2024

WEB COPY

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. Accordingly, the detention order passed by the second respondent on 09.12.2023 in No.656/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vinothkumar, son of Chandiran, aged about 23 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]

08.04.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu



WEB COPY



HCP.No.155 of 2024

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

Anu

To

1.The Assistant Secretary to Government,
Secretariat,
Chennai-09.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Central Jail Puzhal,
Chennai.

4.The Inspector of Police,
K-11, C.M.B.T Police Station,
(Law & Order)
Chennai.

5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai

6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.155 of 2024

08.04.2024