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H.C.P.No.421 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

CORAM :

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

H.C.P.No.421 of 2024

M.Asiya Shafrin

... Petitioner

Vs.

1.The Union of India

Rep. by the Joint Secretary (COFEPOSA)

Ministry of Finance, Department of Revenue

Central Economic Intelligence Bureau

Cofeposa Unit, 6th floor, B Wing, Janpath Bhavan, Janpath

New Delhi 110 001

2.The Director General

Central Economic Intelligence Bureau

Government of India, Ministry of Finance

Department of Revenue

Central Economic Intelligence Bureau

Cofeposa Unit, 6th floor, B wing, Janpath Bhavan, Janpath

New Delhi 110 001

3.The Senior Intelligence Officer

Directorate of Revenue Intelligence

Chennai Zonal Unit, Chennai 600 017

4.The Superintendent of Police

Central Prison

Puzhal

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the 1st respondent in his proceedings in F.No.PD-12001/09/2023-COFEPOSA dated 20.12.2023, set aside the same and direct the respondents to produce the detenu Ahamed S/o.Late Al.Ameen now confined in Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.Adhitya Sathish  
For Respondents : Mr.E.Raj Thilak,  
Additional Public Prosecutor  
Assisted by Mr.C. Aravind

ORDER

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

Since the detention order of the co-accused filed in H.C.P.No.473 of 2024 was quashed by this Court on 29.04.2024, the present Habeas Corpus Petition is taken out of turn.

2.The petitioner herein, who is the wife of the detenu namely



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Ahamed, S/o.Late Shri. Al Ameen, has come forward with this petition challenging the detention order passed by the first respondent dated 20.12.2023 slapped on him, 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].

3. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

4. 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.

5. In the instant case, the detenu was arrested on 15.10.2023 and thereafter, the detention order came to be passed on 20.11.2023. This fact is not disputed by the learned Additional Public Prosecutor.



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6. 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 unreasonable and stands unexplained depends on the facts and circumstances of each case.”*



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7. 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.

8. 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.

9. Accordingly, the detention order passed by the second respondent on 20.12.2023 in F.No.PD-12001/09/2023-COFEPOSA, is hereby set aside



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and the Habeas Corpus Petition is allowed. The petitioner / detenu viz.,  
Ahmed, S/o.Late Shri. Al Ameen, 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]  
30.04.2024

kas

Index : Yes / No  
Neutral Citation

To

1. The Joint Secretary (COFEPOSA)  
Ministry of Finance, Department of Revenue  
Central Economic Intelligence Bureau  
Cofeposa Unit, 6th floor, B Wing, Janpath Bhavan, Janpath  
New Delhi 110 001

2.The Director General  
Central Economic Intelligence Bureau  
Government of India, Ministry of Finance  
Department of Revenue  
Central Economic Intelligence Bureau  
Cofeposa Unit, 6th floor, B wing, Janpath Bhavan, Janpath  
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3.The Senior Intelligence Officer  
Directorate of Revenue Intelligence  
Chennai Zonal Unit, Chennai 600 017

4.The Superintendent of Police  
Central Prison  
Puzhal

5.The Public Prosecutor  
High Court of Madras  
Chennai 600 104



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