



WEB COPY



H.C.P.No.869 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM :

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

H.C.P.No.869 of 2024

Rubel Molla

.. Petitioner/
Husband of the detenue

Versus

1. The State of Tamilnadu,
Rep. by its Secretary to Govt,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.
 2. The Commissioner of Police,
Tambaram City,
Tambaram.
 3. The Superintendent of Prison,
Special Prison for Women, Puzhal,
Chennai - 600 066.
 4. Inspector of Police,
Prohibition Enforcement Wing,
Pallikaranai,
Chennai - 600 100.
- .. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the



H.C.P.No.869 of 2024

entire records leading to the detention of the petitioner's wife Sarjina Khatun, W/o.Rubella Molla, Female, aged about 28 years, is presently lodged in Special Prison for Women, Puzhal at Chennai and has been detained under Act 14/82 as a "Drug Offender" vide detention order dated 15.03.2024 on the file of the 2nd respondent herein, made in BDFGISSSV No.33/2024 and quash the same and consequently direct the respondents herein to produce the body and person of the said detenue before this Court and thereafter set him at liberty from the Special Prison for Women, Puzhal, Chennai.

For Petitioner : Mr.M.Rajavelu

For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner herein is the husband of the detenue viz., Sarjina Khatun, C/o.Rubel Molla, aged about 28 years, confined at Special Prison for Women, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 15.03.2024 slapped on his wife, branding her as "Drug Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



H.C.P.No.869 of 2024

WEB COPY

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 detainee was arrested on 09.02.2024 and thereafter, the detention order came to be passed on 15.03.2024. 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



H.C.P.No.869 of 2024

grounds and the purpose of detention, stands snapped in arresting the detainee. 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.”

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



H.C.P.No.869 of 2024

WEB COPY

proximate link between them would also stand snapped and thereby, had quashed the detention order on this ground.

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 detenue 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 detenue, the detention order in the present case, is liable to be quashed.

8. Accordingly, the detention order passed by the second respondent on 15.03.2024 in BCDFGISSSV No.33/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz., Sarjina Khatun, C/o.Rubel Molla, aged about 28 years, confined at Special Prison for Women, Puzhal, Chennai 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]



H.C.P.No.869 of 2024

10.07.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

1. The Secretary to Govt,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.
2. The Commissioner of Police,
Tambaram City,
Tambaram.
3. The Superintendent of Prison,
Special Prison for Women, Puzhal,
Chennai - 600 066.
4. Inspector of Police,
Prohibition Enforcement Wing,
Pallikaranai,
Chennai - 600 100.
5. The Public Prosecutor,
High Court of Madras.



WEB COPY



H.C.P.No.869 of 2024

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

grs

H.C.P.No.869 of 2024

10.07.2024