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H.C.P.No.1785 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.1785 of 2024

Yosuwa Daniel

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.District Collector and District Magistrate,
Ariyalur District,
Ariyalur.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

4.The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.

... Respondents

Prayer: Habeas Corpus Petition is filed under Article 226 of the Constitution



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of India for issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order in Cr.M.P.No.09/2024, dated 30.03.2024 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's brother Ebi alias Ebinezar S/o.Pannerselvam aged about 30 years the detenue, now confined in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.P.Praveen Kumar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The petitioner herein is the brother of the detenu viz., Ebi @ Ebinezar, S/o. Panneerselvam, aged 30 years, now confined at Central Prison, Tiruchirappalli, has come forward with this Habeas Corpus Petition challenging the detention order passed by the 2nd respondent in Cr.M.P.No.09/2024, dated 30.03.2024.

2. Heard the learned counsel for the petitioner, as well as the learned



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Additional Public Prosecutor appearing on behalf of the respondents.

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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 31.01.2024 and thereafter, the detention order came to be passed on 30.03.2024. This fact is not disputed by the learned Additional Public Prosecutor.

5. In the case of ***Sushanta Kumar Banik vs. State of Tripura***¹, 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

¹ [2022 LiveLaw (SC) 813]



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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***², 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.

7. In yet another case i.e., in ***Nagaraj vs. State of Tamil Nadu***³, this

² [2023 SCC OnLine Mad 6332]

³ [(2018) 3 MWN (Cri) 428]



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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 2nd respondent in Cr.M.P.No.09/2024, dated 30.03.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ebi @ Ebinezar, S/o. Panneerselvam, aged 30 years, now confined at Central Prison, Tiruchirappalli, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]
27.08.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,



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Fort St. George,
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- 2.The District Collector and District Magistrate,
Ariyalur District,
Ariyalur.
- 3.The Superintendent of Prison,
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- 4.The Inspector of Police,
Keelapalur Police Station,
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- 5.The Public Prosecutor,
Madras High Court.



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S.M.SUBRAMANIAM, J.
and
V.SIVAGNANAM, J.

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