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HCP.No.2107 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2107 of 2024

Rita

... Petitioner/Mother
of the Detenue

Vs.

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai, Chennai.
3. The Inspector of Police,
K-8, Arumbakkam Police Station, Chennai.
4. The Superintendent,
Central Prison, Puzhal, Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records relating to petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 23.07.2024 on the file of the second respondent herein made in proceedings No.778/BCDFGISSSV/2024 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Lasar Merwin Vijay @ Merwin Vijay, aged 39 years, son of Joseph Selvam, before this Court and set him at liberty, now petitioner's son detained at Central Prison, Puzhal, Chennai - 600 066.

For Petitioner : Mr.C.C.Chellappan
For Respondents : Mr. E. Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The preventive detention order passed by the second respondent dated 23.07.2024 is sought to be quashed in the present habeas corpus petition.

2. The learned Counsel appearing on behalf of the petitioner would mainly contend that there was a delay in considering the representation submitted by the detainee under Act 14 of 1982.



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3. In the instant case, there is a delay of (09) nine days in considering the representation and that is not disputed by the learned Additional Public Prosecutor. The delay in considering the representation undoubtedly caused infringement of the right of personal liberty of the detenu under Article 21 of the constitution of India. Thus, the order of detention do not stand under the scrutiny of law.

4. Further, the learned Counsel for the petitioner submitted that the detenu was arrested on 15.06.2024 and thereafter, the detention order came to be passed on 23.07.2024.

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



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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. For the aforesaid reasons, the detention order passed by the second respondent in proceedings No.778/BCDFGISSSV/2024 dated 23.07.2024 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Lasar Merwin Vijay @ Merwin Vijay S/o. Joseph Selvan aged 39 years confined at Central Prison, Puzhal, Chennai 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.]
12.09.2024

Index : Yes/No
Speaking Order : Yes/No



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Neutral Citation : Yes/No
veda

To

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai, Chennai.
4. The Inspector of Police,
K-8, Arumbakkam Police Station, Chennai.
5. The Superintendent,
Central Prison, Puzhal, Chennai.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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

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