



WEB COPY



HCP.No.2251 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

H.C.P.No.2251 of 2024

A.Gayathri

...

Petitioner

Vs

1. The State of Tamil Nadu rep.by,
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Magistrate and District Collector,
Villupuram.
3. The Superintendent of Police,
Villupuram.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Villupuram West, Villupuram.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to calling for the records in connection with the order of detention passed by the 2nd respondent in detention order bearing Rc.No.C2/26/2024 dated 30.06.2024 against the detenu Allaudeen alias Ali, Son of Ameer Usain confined at Central Prison, Cuddalore and set aside the same,



HCP.No.2251 of 2024

consequently, direct the respondents to produce the body of the detenu Allaudeen alias Ali, Son of Ameer Usain before this Court and set him at liberty.

WEB COPY

For Petitioner : Mr.S.Ranjith Kumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The order of detention passed by the second respondent herein in Rc.No.C2/26/2024 dated 30.06.2024, is sought to be quashed in the present Habeas Corpus Petition.

2. The ground taken in the present petition is that the detenu was arrested on 23.05.2024 and the impugned order of detention has been issued on 30.06.2024 after a lapse of one month.

3. In this regard, the Hon'ble Supreme Court of India in the case of '*Sushanta Kumar Banik Vs. State of Tripura*', reported in '*2022 LiveLaw (SC) 813*' held as follows:

“20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is



HCP.No.2251 of 2024

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.”

3.1. In the case of ***T.A. Abdul Rahaman Vs. State of Kerala and Ors.*** reported in ***(1989) 4 SCC 741***, the Apex Court held as follows:

10. The conspectus of the above decisions can be summarised thus : The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities



HCP.No.2251 of 2024

considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for detaining the detenu with a view to preventing him from acting in a prejudicial manner.

4. The fact about the long delay would be sufficient to draw an inference that the detaining authority has failed to apply their mind for the purpose of issuing the impugned order under Act 14 of 1982.

5. Accordingly, the impugned order of detention in Rc.No.C2/26/2024 dated 30.06.2024, is quashed and the Habeas Corpus Petition stands **allowed**. The detenu, namely, Allaudeen alias Ali, Son of Ameer Usain, aged 27 years, now confined at Central Prison, Cuddalore, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.] [A.D.M.C., J.]
25.09.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No



HCP.No.2251 of 2024



WEB COPY



HCP.No.2251 of 2024

S.M.SUBRAMANIAM, J.
AND
DR. JUSTICE A.D.MARIA CLETE, J.

sli

To

1. The State of Tamil Nadu rep.by,
Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Magistrate and District Collector,
Villupuram.
3. The Superintendent of Police,
Villupuram.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Villupuram West, Villupuram.
6. The Public Prosecutor,
Madras High Court.

H.C.P.No.2251 of 2024

25.09.2024