



H.C.P.No.1932 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1932 of 2023

Hajira Banu

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.
 - 2.The District Collector and District Magistrate of Ranipet District,
Ranipet.
 - 3.The Superintendent of Police,
Ranipet District,
Ranipet.
 - 4.The Superintendent of Central Prison,
Salem.
 - 5.The Inspector of Police,
Arakonam Prohibition Enforcement Wing,
Ranipet District.
- ... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus calling upon the production of the records relating to the detention order dated 09.08.2023 made in detention order in B3/D.O.No.35/2023 under Section 3(1) of the Tamil Nadu Act.14/1982 as a “DRUG OFFENDER” passed by the second respondent herein quash the same and direct the respondents to produce the body of the detenu Jayalavuthin son of Yusaf is aged 53 years who has been detained in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.M.Senthilkumar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by
Mr.C.Aravind

ORDER

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

The petitioner, wife of the detenu Jayalavuthin S/o Yusaf, aged about 53 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 09.08.2023 slapped on her



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husband, branding him as "Drug Offender" 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].

2. Heard the learned counsel for the petitioner and 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 a delay in passing the order of detention. In the present case, though the detenu was arrested on 07.07.2023, the Detention Order was passed only on 09.08.2023.

4. The Hon'ble Supreme Court in the case of ***Sushantha Kumar Banik Vs. State of Tripura and Others*** reported in ***AIR 2022 SC 4715***, has dealt with similar situation and has held in paragraph No.14 as follows:-



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"In view of the above subject of the preventive detention, it becomes very imperative on the part of the detaining authority as well as the executing authorities to remain vigilant and keep their eyes skinned but to turn a blind eye in passing the detention order at the earliest from the date of the proposal and executing the detention order because any indifferent attitude on the part of the detaining authority or executing authority would defeat the very purpose of the preventive action and turn the detention order as a dead letter and frustrate the entire proceedings."

5. The Hon'ble Supreme Court was persuaded to allow the Appeal filed before it mainly on the ground that delay in passing the Order of Detention from the date of the proposal would snap the "live and proximate link" between prejudicial activities and the purpose of detention. Therefore, failure on the part of the Detaining Authority in explaining such delay as in the present case also is a valid ground for quashing the Detention Order.

6. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 09.08.2023 in B3/D.O.No.35/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jayalavuthin



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S/o Yusaf, aged about 53 years, is directed to be set at liberty forthwith

unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
02.01.2024

pvs

Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

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Home, Prohibition & Excise Department,
Fort St. George, Chennai 600 009.
- 2.The District Collector and District Magistrate of Ranipet District,
Ranipet.
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- 6.The Public Prosecutor,
High Court, Madras.

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