



H.C.P.No.2495 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM :

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

H.C.P.No.2495 of 2024

Mohamed Razeen
S/o Mohamed Ismail

.. Petitioner

v.

1. The Union of India rep by
The Joint Secretary to Government
Ministry of Finance
Department of Revenue (COFEPOSA Unit)
Central Economic Intelligence Bureau
6th Floor, 'B' Wing, Janpath Bhawan
New Delhi 110 001
2. The Union of India rep by
The Director General
Central Economic Intelligence Bureau
Ministry of Finance, Department of Revenue
6th Floor, 'B' Wing, Janpath Bhawan
New Delhi 110 001
3. The Chairman
COFEPOSA Advisory Board
High Court of Madras, Chennai



H.C.P.No.2495 of 2024

4. The Superintendent of Central Prison
Puzhal Central Prison, Chennai

.. Respondents

WEB COPY

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the entire records pertaining to the order of the 1st respondent in F.No.PD-12002/03/2024-COFEPOSA dated 13.08.2024 and quash the same as illegal, unconstitutional and violative of principles of natural justice as enshrined under Article 21 of the Indian Constitution and directing the respondents to produce the body of the detenu Mohamed Razeen, aged 46, S/o Mohamed Ismail, now confined in Central Prison-1, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.I.Abdul Basith

For Respondents :: Mr.N.Ramesh
Senior Panel Counsel for R1 & R2
Mr.E.Raj Thilak
Additional Public Prosecutor for R4

ORDER

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

The petitioner/detenu, viz., Mohamed Razeen, S/o Mohamed Ismail, aged 46 years, now confined at Central Prison-I, Puzhal, Chennai has come forward with this petition challenging the detention order passed by the first



H.C.P.No.2495 of 2024

respondent in F.No.PD-12002/03/2024-COFEPOSA dated 13.08.2024.

WEB COPY

2. Heard the learned counsel for the petitioner, the learned Senior Panel Counsel appearing for the respondents 1 & 2 as well as the learned Additional Public Prosecutor appearing for the 4th respondent.

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 28.06.2024 and thereafter, the detention order came to be passed on 13.08.2024. This fact is not disputed by the learned Senior Panel Counsel appearing for the respondents 1 & 2.

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,



H.C.P.No.2495 of 2024

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 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**



H.C.P.No.2495 of 2024

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 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 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 first respondent in F.No.PD-12002/03/2024-COFEPOSA dated 13.08.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Mohamed



H.C.P.No.2495 of 2024

Razeen Mohamed Ismail, S/o Mohamed Ismail, aged 46 years, now confined at Central Prison-I, Puzhal, Chennai , is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

17.10.2024

ss

To

1. The Joint Secretary to Government of India
Ministry of Finance
Department of Revenue (COFEPOSA Unit)
Central Economic Intelligence Bureau
6th Floor, 'B' Wing, Janpath Bhawan
New Delhi 110 001
2. The Director General
Central Economic Intelligence Bureau
Ministry of Finance, Department of Revenue
6th Floor, 'B' Wing, Janpath Bhawan
New Delhi 110 001
3. The Chairman
COFEPOSA Advisory Board
High Court of Madras, Chennai



H.C.P.No.2495 of 2024

4. The Superintendent of Central Prison
Puzhal Central Prison, Chennai

5. The Public Prosecutor
High Court, Madras



WEB COPY



H.C.P.No.2495 of 2024

S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

H.C.P.No.2495 of 2024

17.10.2024