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H.C.P.No.2503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM :

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

H.C.P.No.2503 of 2024

Divya
W/o Vasantheshwaran .. Petitioner

v.

1. The State of Tamil Nadu
represented by Secretary to Government
Home, Prohibition & Excise Department
Fort St.George, Chennai 600 009
2. The District Magistrate and District Collector
Namakkal District, Namakkal
3. The Superintendent of Police
Namakkal District, Namakkal
4. The Superintendent of Prison
Central Prison, Salem
5. The Inspector of Police
Mallasamudram Police Station
Namakkal .. Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order dated 11.09.2024 passed by the second respondent in his proceedings in C.M.P.No.55/Goonda/2024/M1 and quash the same and direct the respondents herein to produce the petitioner's husband namely Vasanth @ Vasantheshwaran, son of Palaniappan, aged about 42 years, who is presently undergoing detention in the Central Prison, Salem as Goonda before this Hon'ble Court and set him at liberty forthwith.

For Petitioner :: Mr.C.S.Saravanan

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

ORDER

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

The petitioner herein, who is the wife of the detenu, viz., Vasanth @ Vasantheshwaran, S/o Palaniappan, aged 42 years, now confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the second respondent in C.M.P.No.55/Goonda/2024 (M1) dated 11.09.2024.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents.



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 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.



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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. Accordingly, the detention order passed by the second respondent in C.M.P.No.55/Goonda/2024 (M1) dated 11.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Vasanth @ Vasantheeshwaran, S/o Palaniappan, aged 42 years, now confined at Central Prison, Salem is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index : yes

Neutral citation : yes/no

(S.M.S.,J.)

(V.S.G.,J.)

28.10.2024

SS



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High Court, Madras



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