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H.C.P.No.2650 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.2650 of 2024

Haritha
W/o Sivakumar .. Petitioner
v.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai 600 009
2. The District Collector & District Magistrate
Office of the District Collector & District Magistrate
Coimbatore
3. The Superintendent of Prison
Central Prison, Coimbatore
4. The Superintendent of Police
Superintendent of Police Office
Coimbatore
5. The Inspector of Police
AWPS Karumathampatti Police Station
Coimbatore .. 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 entire records relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order dated 01.09.2024 on the file of the second respondent herein made in proceedings Memo Cr.M.P.No.49/Sexual Offender/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband, namely, Sivakumar, S/o Pandian, aged 40 years before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Coimbatore.

For Petitioner :: Mr.Deepan Uday

For Respondents :: Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner, who is the wife of the detenu, viz., Sivakumar, S/o Pandian, aged 40 years, now confined at Central Prison, Coimbatore has come forward with this petition challenging the detention order passed by the second respondent in proceedings Cr.M.P.No.49/S.O/2024 dated 01.09.2024.

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



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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 02.07.2024 and thereafter, the detention order came to be passed on 01.09.2024. This fact is not disputed by the learned Additional Public Prosecutor.

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 decisions of this Court, that the underlying principle is that if



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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 proceedings Cr.M.P.No.49/S.O/2024 dated 01.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Sivakumar, S/o Pandian, aged 40 years, now confined at Central Prison, Coimbatore 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.)

(M.J.R.,J.)

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SS



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High Court, Madras



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M.JOTHIRAMAN,J.

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