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HCP.No.2542 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.2542 of 2024

Seetha

... Petitioner/Wife of
the Detenu

Vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600 007.
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai - 600 066.
4. The Inspector of Police,
S-8, Adambakkam Police Station,
St.Thomas District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the impugned order of detention passed by the second respondent in BCDFGISSSV No.911/2024 dated 02.09.2024 and set aside the same and consequently direct the respondents to produce the detenu Manivannan, son of Kuppan, aged about 28 years, petitioner's husband now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.P.Thompson
For Respondents : Mr. E. Raj Thilak
Additional Public Prosecutor

ORDER

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

The preventive detention order passed by the second respondent dated 02.09.2024 is sought to be quashed in the present habeas corpus petition.

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 18.07.2024 and thereafter, the detention order came to be passed on 02.09.2024. 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 there is unreasonable delay between the date of the order of



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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. Further, the impugned order has been passed based on one adverse case registered in Crime No.65/2024 for the offence under Sections 341, 294(b), 323, 384, 506 (ii) of Indian Penal Code. The ground case was registered under NDPS Act.

9. The learned Additional Public Prosecutor for the respondents would submit there are previous cases against the detenu.

10. We have perused the details, which would reveal that many of the cases are old cases and have no proximity with the ground case. Since



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the adverse case relied on would be insufficient to form an opinion that there is likelihood of causing breach of public order, we are inclined to consider the present habeas corpus petition.

11. Accordingly, the detention order passed by the 2nd respondent, BCDFGISSSV No.911 of 2024 dated 02.09.2024, is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., Manivannan @ Sisi Manivannan, aged 28 years, S/o. Kuppan confined at Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.M.S., J.] [V.S.G., J.]
29.10.2024

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

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St.George, Chennai - 9.
3. The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section),
Vepery, Chennai - 600 007.
4. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai - 600 066.
5. The Inspector of Police,
S-8, Adambakkam Police Station,
St.Thomas District.
6. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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