



WEB COPY



HCP.No.2662 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2662 of 2024

Elisabeth

...
Vs

PETITIONER

- 1 The Government Of Tamil Nadu
Rep By Its Secretary To Government,
Home, Prohibition And Excise Department,
Fort St. George, Chennai 600 009.
- 2 District Collector And
District Magistrate, Villupuram District
Villupuram
- 3 The Superintendent
Central Prison, Cuddalore
- 4 The Superintendent Of Police
Villupuram District, Villupuram.
- 5 The Inspector Of Police
Sathiyamangalam Police Station,
Villupuram District.

... RESPONDENTS

PRAYER: Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Habeas Corpus, to call for the entire records relating to 2nd respondent culminating with the order of detention bearing RC.NO.C2/55/2024 dated 03.10.2024 on the file of 2nd respondent detaining the petitioner son under section act XIV of 1982 and quash the same as illegal and consequently direct the respondent to produce the body of the person of the detenu Thiru. Selvakumar alias Bannu Male aged about 30 years before this honble court now detained in the central prison Cuddalore.

For Petitioner : Mr.M.Jaikumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

The petitioner, who is the mother of the detenu, viz., Selvakumar alias Bannu, Male, aged about 30 years, now confined at Central Prison Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent in proceedings Rc No.C2/55/2024 dated 03.10.2024.

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 08.08.2024 and thereafter, the detention order came to be passed on 03.10.2024. 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 Live Law (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 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



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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.

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



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the present case, is liable to be quashed.

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8. Accordingly, the detention order passed by the second respondent proceedings in RC.NO.C2/55/2024 dated 03.10.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Selvakumar alias Bannu, Male, aged about 30 years, now confined at Central Prison Cuddalore, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

Index	:	Yes/No	[S.M.S., J.]	[M.J.R., J.]
Speaking Order	:	Yes/No	03.12.2024	
Neutral Citation	:	Yes/No		

sms

To

- 1 The Government Of Tamil Nadu
Rep By Its Secretary To Government,
Home, Prohibition And Excise Department,
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- 2 District Collector And
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- 3 The Superintendent
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Villupuram District, Villupuram.

5 The Inspector Of Police
Sathiyamangalam Police Station,
Villupuram District.

6 The Public Prosecutor,
Madras High Court.



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S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

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