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HCP.No.2153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2153 of 2023

Vasanthi

... Petitioner/wife of the detenue

Vs.

1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate of
Tiruvannamalai District, Tiruvannamalai.

3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.

4.The Superintendent of Prison,
Central Prison, Vellore.

5.The Inspector of Police,
Polur PEW Police Station,
Tiruvannamalai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, to call for the records in connection with



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the order of detention passed by the second respondent dated 30.10.2023 in D.O.No.88/2023-C2 against the petitioner's husband, Viji @ Vijayakumar, Male, aged 40 years, S/o.Sivanandam, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the wife of the detenu viz., Viji @ Vijayakumar, Male, aged 40 years, S/o.Sivanandam, has come forward with this petition challenging the detention order passed by the second respondent dated 30.10.2023 slapped on her husband, branding him as "Bootlegger" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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

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 27.09.2023 and thereafter, the detention order came to be passed on 30.10.2023. 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:-



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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 on 30.10.2023 in D.O.No.88/2023-C2, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Viji @ Vijayakumar, Male, aged 40 years, S/o.Sivanandam, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R., J]

[S.M., J]

05.03.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No



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Anu



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

Anu

To

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The District Collector and District Magistrate of
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- 3.The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
- 4.The Superintendent of Prison,
Central Prison, Vellore.
- 5.The Inspector of Police,
Polur PEW Police Station,
Tiruvannamalai District.
- 6.The Public Prosecutor,
High Court, Madras.

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