



HCP.No.2762 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM :

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

H.C.P.No.2762 of 2024

Santha

...

Petitioner

Vs

- 1 State Of Tamil Nadu,
Rep. By its Secretary,
Home Prohibition And Excise Department,
Fort St.George,
Chennai - 600 009.
- 2 The Commissioner of Police,
Avadi City,
O/o The Commissioner of Police (Goondas Section),
Avadi Chennai 600 054
3. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai District



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4. The Inspector of Police,
B-7, Vellavedu Police Station,
Thiruvallur

... Respondents

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, calling for the records s relating to the Detention Order vide Memo No.150/BCDFGISSSV/2024 dated 31.08.2024 passed by the Second Respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Nareshkumar @ Naresh, S/o.Arul, aged 30 years (who is presently under going detention in the Central Prison, Puzhal, Chennai) before this Hon'ble Court and set him at liberty.

For Petitioner - Mr.A.Tamilselvan

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 son of the detenu, viz., Nareshkumar @ Naresh, S/o.Arul, aged 30 years, now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order



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passed by the second respondent in proceedings

No.150/BCDFGISSSV/2024 dated 31.08.2024.

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 10.07.2024 and thereafter, the detention order came to be passed on 31.08.2024. 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



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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 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.”



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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 the present case is liable to be quashed.



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Index	:	Yes/No	[S.M.S., J.]	[M.J.R., J.]
Speaking Order	:	Yes/No	11.12.2024	
Neutral Citation	:	Yes/No		

mrp

To

- 1 State Of Tamil Nadu,
Rep. By its Secretary,
Home Prohibition And Excise
Department, Fort St.George,
Chennai - 600 009.
- 2 The District Collector And District
Magistrate, Cuddalore District,
Cuddalore.
- 3 The Superintendent Of Police
Cuddalore District, Cuddalore District.



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- 4 The Superintendent,
Central Prison, Cuddalore District,
Cuddalore-4.
- 5 The Inspector Of Police
Annamalai Nagar Police Circle,
Annamalai Nagar, Chidambaram Taluk,
Cuddalore District.
- 6 The Public Prosecutor,
High Court, Madras.



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

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