



HCPNo.2873 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.2873 of 2024

1 Radhika ... PETITIONER
Vs

1 The Secretary To The Government
Government Of Tamil Nadu (home)
Prohibition And Excise Department,
Fort St.George, Chennai - 600 009.

2 The District Collector And
District Magistrate, Villupuram District
Villupuram.

3 The Superintendent Of Police
Villupuram, Villupuram District.

4 The Superintendent
Central Prison, Puzhal Chennai.

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

...

RESPONDENTS



HCPNo.2873 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein concerned in RC.No.C2/54/2024 dated 29.09.2024 and quash the order of detention passed therein by the 2nd respondent herein against the detenu and consequently directing the respondents herein to produce the detenu by name SIVANESAN @ DURAI AGED ABOUT 44 YEARS SON OF KARUNANITHI now detained at Central Prison, Puzhal, Chennai before this Honble Court and setting him at Liberty forthwith.

For Petitioner : Mr.M.R.Elavarasan

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 wife of the detenu, viz., SIVANESAN @ DURAI, aged about 44 years, S/o.KARUNANITHI now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in proceedings RC.No.C2/54/2024 dated 29.09.2024.

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



HCPNo.2873 of 2024

WEB COP 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 29.08.2024 and thereafter, the detention order came to be passed on 29.09.2024. 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 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



HCPNo.2873 of 2024

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.

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



HCPNo.2873 of 2024

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 proceedings in RC.No.C2/54/2024 dated 29.09.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., SIVANESAN @ DURAI, aged about 44 years, S/o.KARUNANITHI, now confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

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

[S.M.S., J.] [M.J.R., J.]
03.12.2024

To

- 1 The Secretary To The Government
Government Of Tamil Nadu (home)
Prohibition And Excise Department,
Fort St.George, Chennai - 600 009.



HCPNo.2873 of 2024

WEB COPY

- 2 The District Collector And
District Magistrate, Villupuram District
Villupuram.
- 3 The Superintendent Of Police
Villupuram, Villupuram District.
- 4 The Superintendent
Central Prison, Puzhal Chennai.
- 5 The Inspector Of Police
Sathyamangalam Police Station,
Villupuram District.
- 6 The Public Prosecutor,
Madras High Court.



WEB COPY



HCPNo.2873 of 2024

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

sms

H.C.P.No.2873 of 2024

03.12.2024