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HCP.No.2292 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.2292 of 2023

E.Kasthuri Bai

... Petitioner/mother of the detenue

Vs.

1.The Secretary to the 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,
Verperiy, Chennai.

3.The Superintendent of Prison,
Central Prison Puzhal, Chennai.

4.The Inspector of Police,
F-2 Egmore Police Station,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the second respondent in his proceedings in



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No.511/BCDFGISSSV/2023, dated 30.10.2023 and quash the same as illegal and produce the detainee, namely Ruban, S/o.Edward, aged 35 years, as Goonda, now he is confined in Central Prison, Puzhal-II, Chennai before this Court and set him at liberty.

For Petitioner : Mr.C.Raja

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 mother of the detenu viz., Ruban, S/o.Edward, aged 35 years, has come forward with this petition challenging the detention order passed by the second respondent dated 30.10.2023 slapped on her son, branding him as "Goonda" 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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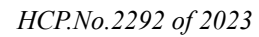
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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

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 11.09.2023 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:-



6. Drawing inspiration from the judgment in *Sushanta Kumar* & *others case*, a co-ordinate Bench of this Court in the case of *'Gomathi Prasad v. Principal Secretary to Government and Others'*, reported in *'2023 OnLine Mad 6332'*, had held that when there is an inordinate delay between the date of arrest/date of proposal till the order of detention, the live link between them would also stand snapped and thereby, vitiating the detention order on this ground.



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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 No.511/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ruban, S/o.Edward, aged 35 years, 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

Anu



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

Anu

To

1.The Secretary to the Government,
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5.The Public Prosecutor,
High Court, Madras.

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