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HCP.No.3034 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

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

H.C.P.No.3034 of 2024

Malliga

... Petitioner /Mother of the detenu

Vs

1. The Secretary To Government
Home, Prohibition And Excise Department
Secretariat, Fort St.George,
Chennai-600 009.
- 2 The Commissioner Of Police
Tambaram City,
Tambaram, Chennai.
- 3 The Superintendent Of Prison,
Central Prison, Puzhal,
Chennai.
- 4 The State Rep By its
The Inspector Of Police,
Peerankaranai Police Station,
Chennai District.

... Respondents



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PRAAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's son detention under TamilNadu Act 14 of 1982 vide detention order dated 12.08.2024 on the file of the second respondent herein made in proceedings BCDFGISSSV No.89/2024, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely, Vijay S/o.Murugan, aged 23 years before this Hon'ble Court and set the petitioners son at liberty from detention now the petitioners son detained at Central Prison Puzhal, Chennai.

For Petitioner : Mr. R.Sasikumar
For Respondents : Mr.R. Muniyapparaj
Additional Public Prosecutor

ORDER

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

The order of detention passed by the second respondent in BCDFGISSSV No.89/2024, dated 12.08.2024 is sought to be quashed in the present Habeas Corpus Petition.

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 03.07.2024 and thereafter, the detention order came to be passed on 12.08.2024. 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 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



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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.



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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. Hence, for the aforesaid reason, the detention order passed by the second respondent in BCDFGISSSV No.89/2024, dated 12.08.2024 is quashed and the Habeas Corpus Petition is allowed. The detenu, viz., Vijay S/o.Murugan, aged 23 years, confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[S.M.S., J.]

[M.J.R., J.]

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



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mrp
To
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- 2 The Commissioner Of Police
Tambaram City,
Tambaram, Chennai.
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5. The Public Prosecutor,
High Court, Madras.



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