



HCP.No.2456 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM :

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

H.C.P.No.2456 of 2023

J. Jebamani

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section), Vepery,
Chennai – 600 007.

3.The Superintendent of Prison,
Central Prison – II, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
K-9, Thiru-Vi-Ka Nagar Police Station,
Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent on 20.09.2023 in No.412/BCDFGISSSV/2023, against the detenu Prem @ Premkumar, S/o.Joseph, male, aged about 39 years, who is now confined at Central Prison, Puzhal, Chennai (the 3rd respondent herein) and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.P. Parthipan
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The petitioner herein, who is the mother of the detenu Prem @ Premkumar, aged 39 years, S/o.Joseph, has come forward with this petition challenging the detention order passed by the second respondent dated 20.09.2023 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



HCP.No.2456 of 2023

Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

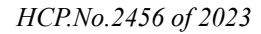
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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that there is a delay in passing the order of detention.

4. In the instant case, admittedly, the detenu was arrested on 20.07.2023 and the detention order was passed on 20.09.2023. In a similar case, where there was a delay in passing the detention order dated 18.06.2022 after the arrest of the detenu on 08.04.2022, this Court in HCP No.1388 of 2022 '**Gomathi Vs. Principal Secretary to Government and Others**', reported in '**2023 SCC OnLine Mad 6332**', held as follows:

“6.... As between 08.04.2022 and 18.06.2022, it is well over two months and given the facts and circumstances of the instant case, particularly ground and the adverse cases, we find that this live and proximate link between grounds and purpose of detention



This Court, in the said order, drew inspiration from the judgment of the Hon'ble Supreme Court in '***Sushanta Kumar Banik Vs. State of Tripura***', reported in '***2022 LiveLaw (SC) 813***', though in that case, the Hon'ble Supreme Court did not directly deal with the issue of delay in passing the detention order after the arrest of the detenu. The relevant observations of the Hon'ble Supreme Court, are extracted hereunder:-

5. In yet another case i.e., in '*Nagaraj Vs. State of Tamil Nadu*', reported in '**(2018) 3 MWN (Cri) 428**', this Court held that the delay of 36



HCP.No.2456 of 2023

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.

Therefore, we are of the view that in view of the unexplained delay in passing the order of detention after the arrest of the detenu, the detention order is liable to be quashed.

6. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 20.09.2023 in No.412/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Prem @ Premkumar, aged 39 years, S/o.Joseph, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]
01.02.2024

Index: Yes/No
Neutral Citation: Yes/No

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HCP.No.2456 of 2023

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

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
(Goondas Section), Vepery,
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K-9, Thiru-Vi-Ka Nagar Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court, Madras.

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