



WEB COPY



HCP.No.2476 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.2476 of 2023

Mathesh

... Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.District Magistrate and District Collector,
Dharmapuri District, Dharmapuri.
- 3.The Superintendent of Police,
Dharmapuri District, Dharmapuri.
- 4.The Superintendent of Prison,
Central Prison, Salem.
- 5.The Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.

... Respondents

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



HCP.No.2476 of 2023

order of detention passed by the second respondent on 27.09.2023 in S.C.No.21/2023, against the petitioner's son Prakash, S/o.Mathesh, male, aged about 19 years, who is confined at Central Prison, Salem and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

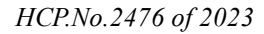
For Petitioner : Mr.D. Balaji

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 father of the detenu Prakash, aged 19 years, has come forward with this petition challenging the detention order passed by the second respondent dated 27.09.2023 slapped on his son, branding him as "Sexual Offender" 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].



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.

“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 had in fact snapped.”



HCP.No.2476 of 2023

WEB COPY

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:-

“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.”



HCP.No.2476 of 2023

WEB COPY

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 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 27.09.2023 in S.C.No.21/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Prakash, aged 19 years, S/o.Mathesh, 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



HCP.No.2476 of 2023



WEB COPY



HCP.No.2476 of 2023

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

Sni

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.District Magistrate and District Collector,
Dharmapuri District, Dharmapuri.
- 3.The Superintendent of Police,
Dharmapuri District, Dharmapuri.
- 4.The Superintendent of Prison,
Central Prison, Salem.
- 5.The Inspector of Police,
Krishnapuram Police Station,
Dharmapuri District.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.2476 of 2023

01.02.2024