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H.C.P.(MD)NO.668 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.668 of 2024

Mahalakshmi

... Petitioner / Mother of the detenu

Vs.

1. State of Tamil Nadu,
Rep. By Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.
 2. The District Collector and District Magistrate,
Sivagangai District.
 3. The Superintendent of Police,
Sivagangai District.
 4. The Superintendent of Prison,
Central Prison Madurai,
Madurai.
 5. State rep. by the Inspector of Police,
PEW-Sivagangai police station,
Sivagangai.
- ... Respondents

Prayer: Habeas Corpus petition is filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records of the second respondent to the order made in Cr.M.P.



No.7/BL/2024 dated 21.05.2024 in detaining the detenu under the Tamil Nadu Act 14 of 1982 as a brand of Bootlegger and quash the same and direct the respondents to produce the detenu, the petitioner's son Muthukumar, S/o.Murugesan, aged 32 years who is detained at the Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.P.Ravindar

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

ORDER

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

The petitioner is the mother of the detenu. The detenu was detained as Bootlegger vide order dated 21.05.2024 by the second respondent. The detenu was arrested on 29.03.2024. There is a gap of more than 53 days between the date of arrest and the date of detention. The case of the petitioner is that on account of the delay in passing the detention order, the live and proximate link between the grounds and the purpose of detention stood snapped.

2. The petitioner's counsel relies on the decision of the Hon'ble Supreme Court reported in *(2022 Livelaw (SC) 813) (Sushanta Kumar*



Banik Vs. State of Tripura). The Hon'ble Supreme Court in the said decision held as follows:-

“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.”

3. We are satisfied that the aforesaid decision clearly applies to the case on hand. The detention order is quashed on this ground. He shall be set at liberty forthwith unless his detention is otherwise warranted by law. The Habeas Corpus Petition is allowed.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)

2nd December 2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU



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To:

1. State of Tamil Nadu,
Rep. By Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai – 600 009.
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PEW-Sivagangai police station,
Sivagangai.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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5

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