



H.C.P.(MD) No.725 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

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Preethi

... Petitioner

-VS-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department Secretariat,
State of Tamil Nadu, Secretariat, Fort St.George,
Chennai~600 009.
- 2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate,
Perambalur District, Perambalur.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the entire records connected with the detention



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order of the second respondent in Cr.M.P. No.06 of 2024 dated 12.02.2024 and quash the same and direct the respondents to produce the body or person of the detenue by name Tamilselvan, S/o.Rajendran, aged about 28 years now confining as drug offender at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.M. Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

The petitioner is the wife of the detenue namely, Tamilselvan, S/o.Rajendran, aged about 28 years. The detenu has been detained by the second respondent by his order in Cr.M.P. No.06 of 2024 dated 12.02.2024, holding her to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.



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3. Though several grounds have been raised in the habeas corpus petition, learned counsel appearing for the petitioner would mainly focus his arguments on the ground that there is an inordinate delay between the arrest of the detenu and passing the impugned detention order. In this case, the detenu was arrested on 11.07.2023, and the impugned detention order came to be passed only on 12.02.2024, i.e., after a lapse of seven months. This inordinate delay in passing the detention order would vitiate the same. He further submitted that there is no live and proximate link between the date of arrest and the date of the detention order. Hence, on this ground, the present impugned detention order is also liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondents strongly opposed the habeas corpus petition by filing his counter. He would submit that though there was a delay in passing the impugned detention order, on that score alone, it cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and therefore prays for dismissal of the habeas corpus petition.



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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."

7. In view of the above, as pointed out by the counsel for the petitioner, the delay has not been satisfactorily explained, thereby vitiating and invalidating the detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P. No.06 of 2024 dated 12.02.2024, passed by the second respondent is set aside. The detenu, viz., Tamilselvan, S/o.Rajendran, aged about



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28 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[C.V.K., J.] [J.S.N.P., J.]
11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department Secretariat,
State of Tamil Nadu, Secretariat, Fort St.George,
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- 2.The District Collector and District Magistrate
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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