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H.C.P.(MD)NO.941 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.941 of 2024

Udhayakumar

... Petitioner / Detenu

Vs.

1. The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home (Prohibition & Excise) Department,
Fort, St.George,
Chennai – 600 009.
2. The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
3. The Superintendent,
Central Prison,
Tiruchirappalli,
Tiruchirappalli District.

... 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 relating to the impugned order of detention made in P.D.No.8 of 2024 dated 22.05.2024 on the file of the District Collector and District Magistrate, Thanjavur District, Thanjavur, the second respondent herein,



braning the detenu by name Udhayakumar, S/o.Saravanan, aged about 25 years as Goonda who is now confined in Central Prison, Tiruchirappalli and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner : Mr.K.M.Karunakaran

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

* * *

ORDER

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

Heard both sides.

2. The detenu was detained as Goonda vide order dated 22.05.2024 by the second respondent. He was actually arrested on 21.04.2024. There is a gap of more than 30 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.

3. 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.”

4. 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. The Principal Secretary to Government,
Home (Prohibition & Excise) Department,
Fort, St.George,
Chennai – 600 009.
2. The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
3. The Superintendent,
Central Prison,
Tiruchirappalli,
Tiruchirappalli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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