



H.C.P.(MD)No.1017 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.1017 of 2024

K.Kubendran @ Raja

... Petitioner /
Father of the Detenu

Vs.

1.The State of Tamil Nadu Rep. by its,
Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Madurai City.

3.The Superintendent of Police,
Central Prison, Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus, calling for the records
in pursuant of the detention order of the 2nd respondent in proceedings in
No.19/BCDFGISSSV/2024 dated 03.05.2024 and quash the same and



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consequently direct the respondents to produce the detenu, namely, Thennarasu, aged 21 years, son of K.Kubendran @ Raja before this Court and set him at liberty.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.T.Senthil Kumar
Addl. Public Prosecutor.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.The petitioner is the father of the detenu. The detenu was detained as a “Goonda” by the Commissioner of Police, Madurai City vide order dated 03.05.2024.

3.It is not in dispute that the ground case based on which the detention order came to be passed was registered on 15.02.2024. Thus, there is delay of 78 days in passing the detention order. The Hon'ble



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Supreme Court in the decision reported in **2022 LiveLaw (SC) 813**

(Sushanta Kumar Banik Vs. State of Tripura) had 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. In this case also, there is no proximate link between the occurrence and passing of the detention order. The aforesaid decision is squarely applicable to the case on hand.



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5. In this view of the matter, the impugned order is set aside and the habeas corpus petition is allowed. The detenu shall be set at liberty unless his detention is otherwise warranted by law.

(G.R.S. J.) & (R.P. J.)
19.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 20.11.2024.

To:-

1. The Principal Secretary to Government,
Home, Prohibition and Excise (XIV) Department,
Fort St. George, Chennai – 600 009.
2. The Commissioner of Police,
Madurai City, Madurai.
3. The Superintendent of Police,
Central Prison, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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