



H.C.P(MD)No.1075 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

CORAM:

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

H.C.P.(MD) No.1075 of 2024

Muniyasamy @ Mounam Muniyasamy

... Petitioner / Detenu

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.

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

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the second respondent in No.29/BCDFGISSSV/2024, dated 19.07.2024 and quash the same and direct the respondents to produce the body or person of the detenu by



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name Muniyasamy @ Mounam Muniyasamy son of Shanmugavel aged about 24 years now detained as “Drug Offender” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor
for R1 & R2

ORDER

Heard both sides.

2. The petitioner was detained as drug offender vide order dated 19.07.2024 by the second respondent. Crime No.276 of 2024 registered on the file of the B4 Keeraithurai Police Station is the ground case. The allegation against the petitioner is that he was found in possession of 2 Kgs of ganja. It is an intermediate quantity. Even though the ground case was registered as early as on 04.06.2024, the detention order came to be passed only on 19.07.2024. The Hon'ble Supreme Court in ***Sushanta Kumar Banik Vs. State of Tripura reported in (2022 Livelaw (SC) 813***) 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



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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. In this case, there is an inordinate delay from the date of arrest till the date of detention. The “live and proximate link” between the two got snapped. The detention order is quashed on this ground.

4. The Habeas Corpus Petition is allowed.

(G.R.S., J.) (R.P., J.)
21.11.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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NOTE: Issue Order Copy on 22.11.2024



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AND
R.POORNIMA, J.

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To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai-600009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City, Madurai.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
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21.11.2024