



H.C.P.(MD)No.1107 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2024

CORAM

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

H.C.P.(MD)No.1107 of 2024

Brindha

... Petitioner / Mother of the detenue

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o.the District Collector and District Magistrate,
Tirunelveli District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli 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 passed by the second respondent in detention order M.H.S.Confdl.No.83/2024, dated



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17.05.2024 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Subash Chandrabose aged about 19 years S/o.Muthukumar, now confined at Central Prison, Palayamkottai, Tirunelveli before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Navaneetharaja

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 petitioner's son was detained as “Goonda” vide order dated 17.05.2024. He was arrested in connection with ground case on 17.04.2024. The learned counsel for the petitioner states 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



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decision held as follows:-

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“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.S. J.) & (R.P. J.)
26.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note: Issue Order Copy on 28.11.2024.

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To:-

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Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o.the District Collector and District Magistrate,
Tirunelveli District.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
R.POORNIMA, J.

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