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H.C.P.(MD)NO.1185 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1185 of 2024

J.Akash Varma

... Petitioner / Brother of the detenu

Vs.

1. State of Tamil Nadu rep. By,
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.

2. The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.

3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... 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 entire records connected with the detention order passed in H.S (M)Confdl No. 83/2024 dated 18.06.2024 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely petitioner's brother i.e Abilash Varma @ Abi, aged about 21 years, S/o.Jebakumar, now detained at the Central Prison, Palayamkottai before this Court and set him at



liberty forthwith.

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For Petitioner : Mr.N.Pragalathan

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 brother was detained as Goonda by the second respondent vide order dated 18.06.2024. The detenu was arrested on 17.05.2024. There is a gap of 31 days between the date of arrest and the date of detention order. 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.)
10th December 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PMU

Note : Issue order copy on 11.12.2024.



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To:

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
2. The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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