



H.C.P.(MD)No.1247 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2024

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

H.C.P.(MD)No.1247 of 2024

Mohammed Ali

... Petitioner / Father of the Detenue

Vs.

1.State rep. by
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 009.

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

3.The Superintendent of Police,
Tirunelveli District.

4.The Superintendent of Prison,
Central Prison, Palayamkottai.

5.The Inspector of Police,
Moondradaippu Police Station,
Tirunelveli District.

... Respondents



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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 records in connection with the detention order passed by the second respondent dated 13.04.2024 in M.H.S.Confdl.No.63/2024 against the son of the petitioner Manasir aged 34 years, Son of Mohammed Ali who is place under detention at Central Prison, Palayamkottai and set aside the detention order and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.D.Venkatachalam

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 13.04.2024 by the second respondent. In the grounds of detention, there is a reference to only one case in which the detainee was involved. It is not in dispute that the occurrence took place on 30.05.2023. It is a case of highway robbery. Crime No.71 of 2023 was registered on the file of



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the Moondradaippu Police Station. The detenue was however arrested only on 16.03.2024. The detention order dated 13.04.2024 has been passed in respect of an occurrence that took place on 30.05.2023. It has been consistently held that there must be proximate and live-link between the event that gave rise to an apprehension that there would be breach of public order and the date of passing of the detention order.

3. The learned counsel appearing for the petitioner drew out attention to the decision reported in *(1989) 4 SCC 741 (T.A.Abdul Rahan Vs. State of Kerala)*. Paragraph Nos.10 & 11 of the said decision read as follows:-

“10. The conspectus of the above decisions can be summarised thus: The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the Court



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has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the Court has to investigate whether the causal connection has been broken in the circumstances of each case.

11. Similarly when there is unsatisfactory and unexplained delay between the date of order of detention and the date of securing the arrest of the detenu, such a delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for detaining the detenu with a view to preventing him from acting in a prejudicial manner.”

4.The ratio laid down in the above case squarely applies to the case on hand. We are more than satisfied that the proximate and live-link stood snapped in this case. In this view of the matter, the order impugned in this petition is set aside. The Habeas Corpus Petition is allowed.

(G.R.S. J.) & (R.P. J.)
11.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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- 1.The Additional Chief Secretary to Government,
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- 2.The District Magistrate and
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- 3.The Superintendent of Police,
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- 5.The Inspector of Police,
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Tirunelveli District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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