



WEB COPY



HCP.No.49 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.No.49 of 2025

Alminha

... Petitioner/Wife of the detenu

Vs.

1.The State of Tamil Nadu,
Rep.by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Chennai.

3.The Superintendent of Prisons,
Central Prison,
Puzhal, Chennai – 600 066.

4.The Inspector of Police,
Law and Order,
N-3, Muthayalpet Police Station,
Chennai.

... Respondents



HCP.No.49 of 2025

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, or any other appropriate writ order or direction in the nature of writ, to call for the entire records from the 2nd respondent in connection with order No.1204/BCDFGISSSV/2024 dated 06.12.2024 and quash the same and produce the petitioner's husband namely, Mohammed Masthan, S/o.Sheik Dawood aged 29 years, now confined in Central Prison, Puzhal, Chennai under the Tamil Nadu Act 14 of 1982 before this Hon'ble Court and set him at liberty.

For Petitioner : Mrs.S.Nadhiya

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The petitioner, who is the wife of the detenu, viz., Mohammed Masthan, S/o.Sheik Dawood, aged 29 years, now confined at Central Prison, Puzhal, Chennai has come forward with this petition challenging the detention order passed by the second respondent in proceedings No.1204/BCDFGISSSV/2024 dated 06.12.2024.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents.



3. Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that there is an inordinate delay in passing the order of detention.

4. In the instant case, the detenu was arrested on 30.10.2024 and thereafter, the detention order came to be passed on 06.12.2024. This fact is not disputed by the learned Additional Public Prosecutor.

5. In the case of '**Sushanta Kumar Banik Vs. State of Tripura**', reported in '**2022 LiveLaw (SC) 813**', when there was an inordinate delay from the date of proposal till passing of the detention order and likewise, between the date of detention order and the actual arrest, the Hon'ble Supreme Court had held that the live and proximate link, between the grounds and the purpose of detention, stands snapped in arresting the detenu. The relevant observation of the Hon'ble Supreme Court is extracted hereunder:-

“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.”

6. Drawing inspiration from the judgment in **Sushanta Kumar Banik's** case, a co-ordinate Bench of this Court in the case of '**Gomathi Vs. Principal Secretary to Government and Others**', reported in '**2023 SCC OnLine Mad 6332**', had held that when there is an inordinate delay from the date of arrest/date of proposal till the order of detention, the live and proximate link between them would also stand snapped and thereby, had quashed the detention order on this ground.

7. In yet another case i.e., in '**Nagaraj Vs. State of Tamil Nadu**', reported in '**(2018) 3 MWN (Cri) 428**', this Court had held that the delay of 36 days in passing the detention order after the arrest of the detenu would snap the live and



HCP.No.49 of 2025

proximate link between the grounds and purpose of detention. Hence, in view of the unexplained and inordinate delay in passing the order of detention after the arrest of the detenu, the detention order in the present case is liable to be quashed.

8. Accordingly, the detention order passed by the second respondent in proceedings No.1204/BCDFGISSSV/2024 dated 06.12.2024 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Mohammed Masthan, S/o.Sheik Dawood, aged 29 years, now confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[S.M.S., J.] [M.J.R., J.]
23.01.2025

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
kak

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Chennai.



HCP.No.49 of 2025

3. The Superintendent of Prisons,
Central Prison,
Puzhal, Chennai – 600 066.

4. The Inspector of Police,
Law and Order,
N-3, Muthayalpet Police Station,
Chennai.

5. The Additional Public Prosecutor,
Madras High Court.



WEB COPY



HCP.No.49 of 2025

S.M.SUBRAMANIAM, J.
AND
M.JOTHIRAMAN, J.

kak

H.C.P.No.49 of 2025

23.01.2025