



WEB COPY

HCP No. 290 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2025

CORAM

THE HONOURABLE MR JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

HCP No. 290 of 2025

Tamilselvi

Petitioner

Vs

1.The Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan
New Delhi – 110 001.

2.The Principal Secretary to the Government,
Food and Consumer Protection Department,
II Floor, Namakkal Kavingnar Maaligai,
Secretariat, Chennai – 600 009.

3.The District Collector and District Magistrate of
Thirupathur District,
Thirupathur.

4.The Superintendent of Police,
Thirupathur District, Thirupathur.



5.The Superintendent of Prison,
Central Prison,
Vellore, Vellore District.

6.The Inspector of Police,
Civil Supply Crime Investigation Department,
Tirupathur Unit,
Tirupathur District.

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the 3rd respondent in C3.D.O.No.02/2025 dated 27.01.2025 against the petitioner's husband Annamalai, S/o. Ashokan, aged about 40 years, at Central Prison, Vellore, Vellore District and set aside the same and direct the respondents to produce the detenu before this Court.

For Petitioner : Mr.E.Kannadasan
For Respondent 1 : Mr.K.Ramanamoorthy,
Sr.P.C.
For Respondent : Mr.E.Raj Thilak,
2 to 6 : Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.Ramesh J.)

The petitioner herein, who is the wife of the detenu namely Annamalai, aged about 40 years s/o.Ashokan, has come forward with this petition



challenging the detention order passed by the second respondent dated 27.01.2025 issued against her husband, branding him as "Black Marketeer"

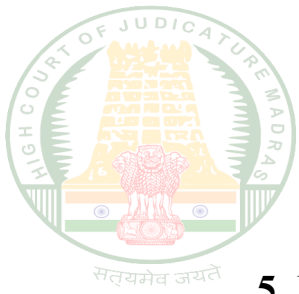
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under the prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 [Central Act No.7 of 1980].

2. Heard the learned counsel for the petitioner, learned Senior Panel Counsel for the first respondent as well as the learned Additional Public Prosecutor appearing for the respondents 2 to 6.

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.

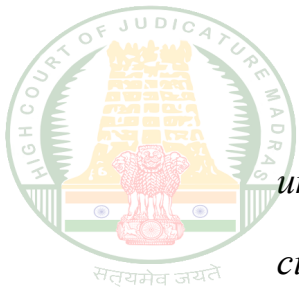
4. In the instant case, the detenu was arrested on 19.12.2024 and thereafter, the detention order came to be passed on 27.01.2025. This fact is not disputed by the learned Additional Public Prosecutor.



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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

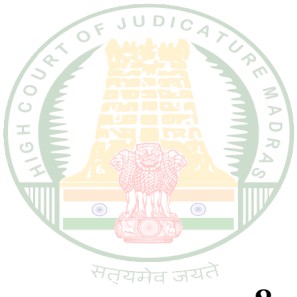


unreasonable and stands unexplained depends on the facts and circumstances of each case.”

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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 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.



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8. Accordingly, the detention order passed by the second respondent on 27.01.2025 in C3.D.O.No.02/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Annamalai, aged about 40 years, S/o.Ashokan, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

(M.S.RAMESH J.) (V.LAKSHMINARAYANAN J.)

03-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



WEB COPY

HCP No. 290 of 2



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WEB COPY

HCP No. 290 of 2



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WEB COPY

HCP No. 290 of 2



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