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H.C.P.No.1332 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

H.C.P.No.1332 of 2025

Indira

... Petitioner/Wife of the detenu

-VS-

1. The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. The Inspector of Police,
D-6, Anna Square Police Station,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records in No.262/BCDFGISSSV/2025 dated 16.05.2025 on the file of second respondent herein and set aside the same as illegal and produce the detenu, Surya, S/o. Sekar @ City



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Sekar, aged about 28 years, who is confined at Central Prison, Puzhal, Chennai before this court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy
For Respondents : Mr.A.Gokulakrishnan
Addl. Public Prosecutor

ORDER

(By J.Nisha Banu,J.)

The petitioner herein, who is the wife of the detenue, namely Surya, S/o. Sekar @ City Sekar, aged about 28 years, detained at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order dated 16.05.2025, passed by the second respondent in No.262/BCDFGISSSV/ 2025, branding him as a "Drug Offender", as contemplated under Section 2 (e) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14, of 1982).

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



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3. Though several grounds are raised in the petition, the

learned counsel for the petitioner submitted that there is a delay of thirty two days delay in passing the order of detention.

4. In the instant case, the detenu was arrested on 15.04.2025 and thereafter, the detention order came to be passed on 16.05.2024. This fact is not disputed by the learned Additional Public Prosecutor. The Apex Court in the case of '*Sushanta Kumar Banik Vs. State of Tripura*', reported in '*2022 LiveLaw (SC) 813*' in respect of 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, had held that the live and proximate link, between the grounds and the purpose of detention, stands snapped in arresting the detenu. The relevant passage 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



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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.”

5. 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.

6. 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 delay in passing the order of detention, after the arrest of the detenue, the detention order in the present case, is liable to be quashed.



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7. In view of the ratio laid down by the Hon'ble Supreme Court

and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

8. For the aforesaid reasons, the Habeas Corpus Petition is allowed and the Detention Order passed by the Second Respondent in Memo No.262/BCDFGISSSV/2025 dated 16.05.2025, is hereby set aside. The detainee, viz., Surya, S/o.Sekar @ City Sekar, aged 28 years, who is now confined in the Central Prison, Puzhal, Chennai, is hereby directed to be set at liberty forthwith unless his presence is required in connection with any other case.

(J.N.B.J.) (S.S.J.)
17.09.2025

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J.NISHA BANU, J.
AND
S.SOUNTHAR, J.
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To:

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Department of Prohibition and Excise (Home),
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