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HCP.Nos.3142, 3143 & 3245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

H.C.P.Nos.3142, 3143 & 3245 of 2024

Chandrasekar	... Petitioner in H.C.P.No.3142 of 2024
Madhesh	... Petitioner in H.C.P.No.3143 of 2024
Divya Dharshini	... Petitioner in H.C.P.No.3245 of 2024

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Deputy Inspector General of Police,
Salem Range and Commissioner of Police,
Salem City,
Salem Distirct.

3.The Superintendent of Police,
Central Prison – Salem,
Salem District.

4.The State rep. By its,
The Inspector of Police,
Salem Town Police Station (Law and Order)
Salem District. ... Respondents in all Petitions



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PRAYER in H.C.P.No.3142 of 2024: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records relating to the petitioners sisters on detention under Tamil Nadu Act 14 of 1982 vide detention order dated 21.11.2024 on the file of the second respondent herein made in proceedings CMP.No.90/Drug Offender / Salem City/ 2024 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's sister's son namely Logesh S/o. Ramesh aged about 31 years before this Honble High Court and set the petitioners sisters son at Liberty from detention now the petitioners sisters son detained at Central Prison Salem.

PRAYER in H.C.P.No.3143 of 2024: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the entire records relating to the petitioners son on detention under Tamil Nadu Act 14 of 1982 vide detention order dated 21.11.2024 on the file of the second respondent herein made in proceedings CMP.No.88/Drug Offender / Salem City/ 2024 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Govindharaj S/o. Madhesh, aged about 32 years before this Court and set the petitioner's son at Liberty from detention now the petitioners sisters son detained at Central Prison Salem.

PRAYER in H.C.P.No.3245 of 2024: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for records in connection with the order of Detention passed by the 2nd Respondent dated 21.11.2024 in CMP.No.89/Drug offender/Salem City/2024 the petitioner's husband Detenue Jeevanandham, M/23, son of



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Mr.Paramasivam, who is confined in Central Prison, Salem and set aside the same and consequently direct the respondents to produce the detenue before this Court and set him at liberty and pass such further or other orders.

(In HCP.Nos.3142 & 3143 of 2024)

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

(In HCP.Nos.3245 of 2024)

For Petitioner : Mr.C.Ganesh Pandian

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

COMMON ORDER

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

The orders of detention passed by the 2nd respondent in proceedings CMP.No.90/Drug Offender / Salem City/ 2024, CMP.No.88/Drug Offender / Salem City/ 2024 and CMP.No.89/Drug Offender / Salem City/ 2024, respectively dated 21.11.2024 is sought to be quashed in the present Habeas Corpus Petitions.

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



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3. The learned counsel for the petitioners submitted that there is an inordinate delay in passing the orders of detention.

4. In the instant case, the detenues were arrested on 15.10.2024 and thereafter, the detention orders came to be passed on 21.11.2024. 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



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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



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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 orders in the present case, are liable to be quashed.

8. Accordingly, the detention orders passed by the second respondent in CMP.No.90/Drug Offender / Salem City/ 2024, CMP.No.88/Drug Offender / Salem City/ 2024 and CMP.No.89/Drug Offender / Salem City/ 2024, respectively dated 21.11.2024, are hereby set aside and the Habeas Corpus Petitions are allowed. The detenu viz. Logesh S/o. Ramesh aged about 31 years and Govindharaj S/o. Madhesh, aged about 32 years and Jeevanandham, M/23, son of Mr.Paramasivam, who are confined at Central Prison, Salem are directed to be set at liberty forthwith, unless thier confinement is required in connection with any other cases.

[S.M.S., J.] [M.J.R., J.]
09.01.2025

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
gd



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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Deputy Inspector General of Police,
Salem Range and Commissioner of Police,
Salem City,
Salem Distirct.
- 3.The Superintendent of Police,
Central Prison – Salem,
Salem District.
- 4.The State rep. By its,
The Inspector of Police,
Salem Town Police Station,
Salem District.
- 5.The Joint Secretary to Government
Public (Law and Order),
Fort ST.George, Chennai – 9.
- 6.The Public Prosecutor,
Madras High Court.



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

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