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H.C.P.No.3189 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

H.C.P.No.3189 of 2024

Gaja Lakshmi

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by Secretary to Government,
Home, Prohibition and Excise XVI Department,
Fort St.George, Chennai-600 009.

2.The Commissioner of Police,
Avadi City.

3.The Superintendent of Prison,
Central Prison Cuddalore,
Cuddalore District.

4.State Rep. by Inspector of Police,
M-5 Ennore Police Station,
Tiruvallur.

5.The Director General of Police,
Mylapore, Chennai-600 004.

... Respondents

(R5 Suo-motu impleaded as per order in HCP No.3189/2024 dated 22.01.2025)



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records of the 2nd respondent, pertaining to the order made in No.183/BCDFGISSSV/2024 dated 26.10.2024 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Drug Offender and quash the same and direct the respondents to produce the detenu namely Nagaraj @ Pambu Nagaraj, aged about 30 years, S/o.Gowreeshwaran, who is detained at the Central Prison Cuddalore District, before this Court and set him at liberty.

For Petitioner : Mr.T.Udayakumar

For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

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

The petitioner herein, who is the wife of the detenu namely Nagaraj @ Pambu Nagaraj, aged about 30 years, S/o.Gowreeshwaran, has come forward with this petition challenging the detention order passed by the second respondent dated 26.10.2024 issued against her husband, branding him as "Drug Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest



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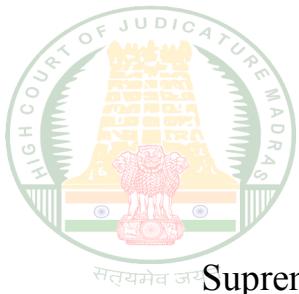
Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, 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 21.08.2024 and thereafter, the detention order came to be passed on 26.10.2024. 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



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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.”



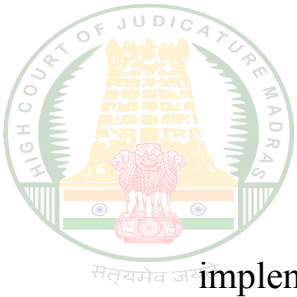
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6. Drawing inspiration from the judgment in ***Sushanta Kumar Banik's case***, a co-ordinate Bench of this Court in the case of '***Gomathi Vs. Principal Secretary to Government and Others***', reported in '***2023 SCC OnLine Mad 6332***', had held 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.

8. Incidentally, a Co-ordinate Bench of this Court, through orders passed on 31.01.2025, had issued directions to the Police for monitoring



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implementation of the circular memorandums by the Subordinate Police Authorities and had also pointed out the engagement of police force for providing private security. In this regard, the Director General of Police was called upon to file their response.

9. Today, the learned Additional Public Prosecutor had produced a copy of the circular memorandum dated 21.04.2025 issued by the Director General of Police with certain directions to all the Zonal Inspector Generals of Police and Commissioners of Police to convene periodical reviews for assessment of security that are provided to private persons. In the said circular, the Officials were also directed to follow the guidelines provided in the yellow book regarding this. This apart, all Unit Officers are instructed to scrupulously adhere to the instructions without any deviation.

10. By taking note of the aforesaid circular, we are of the view that the Director General of Police had issued appropriate orders, pursuant to the interim directions of this Court dated 31.01.2025.



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11. In the light of the aforesaid observations and findings, the detention order passed by the second respondent on 26.10.2024 in BCDFGISSSV No.183/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Nagaraj @ Pambu Nagaraj, aged about 30 years, S/o.Gowreeshwaran, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[N.S, J.]

22.04.2025

Index: Yes/No

Speaking order/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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M.S.RAMESH, J.
and
N. SENTHILKUMAR, J.

Sni

To

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

2.The Commissioner of Police,
Avadi City.

3.The Superintendent of Prison,
Central Prison Cuddalore,
Cuddalore District.

4.The Inspector of Police,
M-5 Ennore Police Station, Tiruvallur.

5.The Director General of Police,
Mylapore, Chennai-600 004.

6.The Public Prosecutor,
High Court, Madras.

7.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.

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