



H.C.P.(MD)No.1080 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

H.C.P.(MD)No.1080 of 2024

Kaleeswari

... Petitioner / Mother of the Detenu

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order of the second respondent in No.30/BCDFGISSSV/2024, dated 19.07.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Nagarjun son of Sankar, aged about 25 years, now detained as “Goonda” at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor.

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2. The petitioner's son was detained as 'Goonda' vide order dated 19.07.2024 by the second respondent. The occurrence had taken place on 26.04.2024. The detenue was arrested on 29.04.2024. The detention order was passed on 19.07.2024. There is a gap of 83 days between the date of arrest and the date of passing of the detention order.



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3. The Hon'ble Supreme Court in ***Sushanta Kumar Banik Vs.***

State of Tripura reported in (2022 Livelaw (SC) 813) held as follows:-

“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.”

4. In this case, there is an inordinate delay from the date of arrest till the date of detention. The “live and proximate link” between the two got snapped. The detention order is quashed on this ground. The detenue shall be set at liberty forthwith unless his detention is otherwise warranted by law.



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5. The Habeas Corpus Petition is allowed.

(G.R.S. J.,) & (R.P. J.,)
28.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi

Note: Issue Order Copy on 29.01.2025.

To:-

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City,
Madurai.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
R.POORNIMA, J.

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