



H.C.P(MD)No.1350 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

H.C.P.(MD) No.1350 of 2024

Nagalakshmi

... Petitioner / Wife of the detenue

Vs.

- 1.State of Tamil Nadu,
Rep. By Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Secretariat, Chennai 600 009.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Inspector of Police,
Prohibition Enforcement Wing,
Dindigul,
(Crime No.695/2024)
- 4.The Superintendent of Prison,
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 records relating to the detention order of the second respondent in Detention Order No.70 / 2024 and quash the same and consequently, direct the respondents to produce the body or person of the detainee namely Mahankumar S/o.Jayapal aged a bout 32 years now detained as “Drug Offender” at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.K.Palmurugan

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

ORDER

Heard both sides.

2. The petitioner's husband was detained as “Drug Offender” vide order dated 02.07.2024 by the second respondent. The detainee was arrested on 20.05.2024 in the ground case. There is a gap of 43 days between the date of arrest and the date of passing of the detention order.

3. The Hon'ble Supreme Court in ***Sushanta Kumar Banik Vs. State of Tripura reported in (2022 Livelaw (SC) 813)*** held as follows:-



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“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.

5. The Habeas Corpus Petition is allowed.

(G.R.S., J.) (R.P., J.)
06.01.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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NOTE: Issue Order Copy on 07.01.2025



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G.R.SWAMINATHAN, J.
AND
R.POORNIMA, J.

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To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Secretariat, Chennai 600 009.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Inspector of Police,
Prohibition Enforcement Wing,
Dindigul,
(Crime No.695/2024)
- 4.The Superintendent of Prison,
Central Prison,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P.(MD) No.1350 of 2024

06.01.2025