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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.1573 of 2024

Vijayakumar ... Petitioner

vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai -9.

2. The District Collector and District Magistrate,
O/o the District Collector and District Magistrate,
Madurai District.

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

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the 2nd respondent in BCDFGISSSV.No.38 of 2024, dated 30.09.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Vijayakumar, son of Muthu aged about 26 years, now detained as “Goonda” at Madurai, Central Prison before this before and set him at liberty forthwith.

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For Petitioner : Mr. S. Ramesh kumar

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

[Order of the Court was made by **A.D.JAGADISH CHANDIRA, J.**]

The petitioner is the detenu viz., Vijayakumar, son of Muthu aged about 26 years. The detenu has been detained by the 2nd respondent in BCDFGISSSV.No.38 of 2024, dated 30.09.2024 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the habeas corpus petition, learned counsel appearing for the petitioner would mainly focus his arguments on the ground that there is an inordinate delay between the arrest of the detenu and passing the impugned detention order. In this case, the detenu

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was arrested on 18.07.2024, and the impugned detention order came to be passed only on 30.09.2024 i.e., after a lapse of two months. This inordinate delay in passing the detention order would vitiate the same. He further submitted that there is no live and proximate link between the date of arrest and the date of the detention order. Hence, on this ground, the present impugned detention order is also liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondents strongly opposed the habeas corpus petition by filing his counter. He would submit that though there was a delay in passing the impugned detention order, on that score alone, it cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and therefore prays for dismissal of the habeas corpus petition.

5. Though it has been stated by the respondents that collection of details has caused the delay in passing the impugned detention order, a perusal of the grounds of the detention order passed by the detaining authority shows that this is only the ground case and there is no adverse case pending against him. The detenu was arrested in the ground case as early as on 18.07.2024 and the detention order was passed on 30.09.2024. This shows an inordinate delay

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in passing the detention order, which is also unexplained. The live and proximate link between the arrest of the detenu and the need for passing the order of detention has snapped. Thus, on this sole ground alone, the impugned order of detention is liable to be set aside.

6. In the case of ***Sushanta Kumar Banik vs. State of Tripura,*** reported in ***2022 SCC Online (SC) 1333***, when there was an inordinate delay from the date of proposal till passing of the detention order and likewise, between the date of actual arrest and the date of detention order, the Honourable Supreme Court has held that the live and proximate link, between the grounds and the purpose of detention, stands snapped throwing a considerable doubt on the genuineness of the requisite satisfaction of the detaining authority in passing the detention order unless such delay is satisfactorily explained and consequently making it invalid. The relevant portion 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*

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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."

7. In view of the above, as pointed out by the counsel for the petitioner, the delay has not been satisfactorily explained, thereby vitiating and invalidating the detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in BCDFGISSSV.No.38 of 2024, dated 30.09.2024, passed by the second respondent is set aside. The detenu, viz., Vijayakumar, son of Muthu aged about 26 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[A.D.J.C., J.] [R.P., J.]
08.07.2025

Index : Yes / No
Neutral Citation : Yes / No
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A.D.JAGADISH CHANDIRA, J.
AND
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ORDER MADE IN
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