

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, MADRAS BENCH  
THE HON'BLE MR. JUSTICE M. SUNDAR , THE HON'BLE MR. JUSTICE M.  
NIRMAL KUMAR

HCP NO. 1381 OF 2022

06.02.2023

D.Mala W/o.Dhanushkodi

*... Petitioner*

v.

The Secretary, Prohibition and Excise Department (Home), Government of Tamil Nadu, Fort St.George, Chennai-9 & Ors.

*... Respondents*

**Constitution of India (Article 226) — Writ of Habeas Corpus — Preventive Detention — Prolonged and unexplained delay in issuing detention order severed the live and proximate link between grounds and purpose — Preventive detention should not become punitive — Detention order invalid — Detenu released.**

**Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 — PIT NDPS Act — Delay in passing preventive detention order — Unexplained or unreasonable delay severs the 'live and proximate link' — Preventive detention should not become punitive — Detention invalid — Detenu released.**

**The Indian Penal Code (45 of 1860) — Preventive Detention — Unexplained 53-day gap between remand and detention order — Proximate link severed — Detention set aside.**

**Arms Act, 1959 — Preventive Detention under §. 25(1A) — Unexplained 53-day delay between arrest and detention order — Live and proximate link severed — Detention invalid — Detenu released.**

**The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 — Preventive Detention — Detenu branded as 'Goonda' under §. 2(f) — Two-month unexplained delay severed live and proximate link — Preventive detention should not become punitive — Detention order set aside — Detenu released.**

**FACTS.** On 19.04.2022, the detenu was arrested in connection with Crime No.167 of 2022 for alleged offences under Section 399 of the Indian Penal Code and Section 25(1A) of the Arms Act, 1959. The District Collector issued a detention order on 11.06.2022, branding the detenu as a 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities Act, 1982, 53 days after the detenu's remand. The petitioner, the detenu's spouse, filed a habeas corpus petition under Article 226 of the Constitution on 13.07.2022, challenging the detention on the ground of undue delay between arrest and issuance of the order. The High Court reviewed

whether this delay severed the link between the grounds of detention and its purpose, examining the timeline and factual setting before arriving at its decision.

**PRAYER.** Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records of the 2nd respondent in C.O.C.No.342022 dated 11.06.2022 and set aside the same and direct the 2nd respondent to produce the detenu Vandu @ Dahnaraj, Son of Dhanushkodi aged about 21 years, now confined in Central Prison, Trichy before this Hon'ble Court and set him at liberty.

#### **ISSUES OF LAW.**

- Whether the alleged delay in passing the detention order was unexplained and unreasonable
- Whether such delay invalidates the detention by severing the link between the grounds of detention and its purpose.

**SUMMARY.** A habeas corpus petition was filed challenging the preventive detention of the detenu, who was arrested for alleged offences under Section 399 of the Indian Penal Code and Section 25(1A) of the Arms Act, 1959. The petitioner asserted that the significant delay between arrest and the detention order severed the connection between the grounds and purpose of detention. The State maintained that no fixed timeline governs such orders and defended the detention as justified. Referring to precedent, the Court concluded that unexplained and unreasonable delay in issuing a preventive detention order can invalidate it. The Court declared the order void and directed the detenu's release.

**HELD.** The Court held that the prolonged and unexplained delay dissolved the live and proximate link between the grounds for detention and its purpose. Consequently, the detention was deemed invalid and set aside. The detenu was directed to be released forthwith if not required in any other matter, emphasizing that preventive detention should not become punitive.

**FINAL STATUS.** Allowed.

#### **CASES REFERRED**

Sushanta Kumar Banik vs State of Tripura & Others, 2022 LiveLaw (SC) 813 : 2022 SCC OnLine SC 1333

#### **COUNSELS**

Mr.S.Vellidoss, representing Mr.Veerapillai Ramesh (for Petitioner)  
Mr.R.Muniyapparaj, Additional Public Prosecutor (for Respondents)

**Judgment Pronounced on 06.02.2023**