WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

HCP No. 378 of 2026

Baby
W/o Manoharan

..Petitioner(s)

Vs

1. The Principal Secretary to Government
   Home Prohibition and Excise Department,
   Secretariat,
   Fort.St.George,
   Chennai - 600009.

2. The District Magistrate and District Collector
   Erode District.

3. The Superintendent of Police
   Erode District.

4. The Superintendent of Prison
   Central Prison,
   Coimbatore.

5. The Inspector Of Police
   Erode South Police Station,
   Erode District.

..Respondent(s)

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus or any other Writ or Direction calling for the entire records connected with the detention order of the 2nd respondent in Cr.M.P.No.10/Drug Offender/2026 C1 dated 04.02.2026 and quash the same

https://www.mhc.tn.gov.in/judis

WEB COPY

and direct the respondents to produce the body and person of the petitioner's son namely Madhan, son of Manoharan, aged about 31 years detained in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner(s): Mr.S.Mohamed Ansar

For Respondent(s): Mr.M.Mohamed Riyaz
Government Advocate (Crl.side)

ORDER

(Order of the Court was made by N.Sathish Kumar J.)

The petitioner, who is the mother of the detenu Madhan, son of Manoharan, male, aged about 31 years, has come forward with this petition challenging the detention order passed by the second respondent dated 04.02.2026 bearing reference Cr.M.P.No.10/Drug Offender/2026 C1 slapped on her son, branding him as "Drug Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondents.

3. Though several grounds have been raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an

https://www.mhc.tn.gov.in/judis

WEB COPY

unexplained delay in serving the booklet. According to the learned counsel for the petitioner, though the detention order was passed on 04.02.2026, the booklet was served on the detenu only on 09.02.2026, which is in violation of mandatory provision under Section 8(1) of the Tamil Nadu Act 14 of 1982.

4. In the instant case, though the detenu was detained on 04.02.2026 through the detention order, the booklet was served only on 09.02.2026. Under Section 8 (1) of the Tamil Nadu Act 14 of 1982, the Detaining Authority is mandated to communicate the grounds of detention or booklet within a period of five (5) days. The computation of the period of five days was considered by the Coordinate Bench of this Court in the case of ***Vasanthi vs. The Secretary to Government and others, passed in H.C.P.Nos.1407 and 1410 of 2023***, dated 29.08.2023, wherein reliance was placed on the decision of the Hon'ble Supreme Court in the case of ***'Enforcement Directorate, Government of India vs. Kapil Wadhawan and another'***, reported in ***'2023 SCC OnLine SC 972'***, and held as follows:

> *"9.3 .....*
>
> *.....It was a reference before the Hon'ble Larger Bench, however, as that is also a matter of curtailment of liberty (as in the case on hand), we draw inspiration from Kapil Wadhawan principle and hold that while computing five days within the meaning of Section 8(1) of Act 14 of 1982, the date on which the preventive detention order is served on the detenu i.e., formal arrest pursuant to the preventive detention order should also be included."*

https://www.mhc.tn.gov.in/judis

WEB COPY

5. Thus, when the order of detention is taken into consideration for the purpose of computing five days period, the Detaining Authority has served it on the sixth day, which is opposite to the ratio laid down by the Hon'ble Supreme Court as followed by the Coordinate Bench of this Court in Vasanthi's case. The reasons for the said delay has not been properly explained by the Detaining Authority.

6. In view of the violation of the mandatory provision under Section 8 (1) of the Tamil Nadu Act 14 of 1982, the order of detention cannot be legally sustained.

7. In the result, this Habeas Corpus Petition is allowed and the detention order passed by the second respondent dated 04.02.2026 in Cr.M.P.No.10/Drug Offender/2026/C1 is hereby set aside. The detenue viz.,Madhan, male, aged 31 years, S/o.Manoharan, is directed to be set at liberty forthwith unless he is required in connection with any other case.

(N.S.K.,J.) (K.R.S.,J.)
19-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

gpa

https://www.mhc.tn.gov.in/judis

WEB COPY

To

1. The Principal Secretary to Government
   Home Prohibition and Excise Department,
   Secretariat,
   Fort.St.George,
   Chennai - 600009.

2. The District Magistrate and District Collector
   Erode District.

3. The Superintendent of Police
   Erode District.

4. The Superintendent of Prison
   Central Prison,
   Coimbatore.

5. The Inspector Of Police
   Erode South Police Station,
   Erode District.

6. The Joint Secretary to Government
   Public (Law & Order)
   Fort Saint George, Chennai – 9

7. The Public Prosecutor
   High Court, Madras.

https://www.mhc.tn.gov.in/judis

WEB COPY

N.SATHISH KUMAR, J.
AND
K.RAJASEKAR, J.

gpa

HCP No. 378 of 2026

19-08-2026

https://www.mhc.tn.gov.in/judis