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H.C.P.No.347 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.347 of 2025

Rethinapandiyam

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Commissioner of Police/Detaining Authority,
Coimbatore City,
Coimbatore District.

3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.

4.State rep. by its
Inspector of Police,
Cyber Crime Police Station,
Coimbatore District.
(Crime No.185/2024)

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records, relating to the petitioner's son's detention under Section 2(bb) of Tamil Nadu Act 14 of 1982, vide detention order dated 30.01.2025 on the file of the second respondent herein made in C.No.10/G/IS/2025, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely R.Dhanasekar, aged about 29 years, S/o.Rethinapandiyan, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

(Order of the Court was made by *M.S. RAMESH, J.*)

The petitioner herein, who is the father of the detenu namely R.Dhanasekar, aged about 29 years, S/o.Rethinapandiyan, has come forward with this petition challenging the detention order passed by the second respondent dated 30.01.2025 issued against his son, branding him as "Cyber Law Offender" under the Tamil Nadu Prevention of Dangerous



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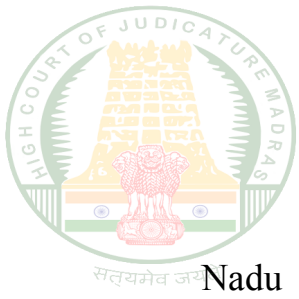
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Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in serving the booklet. According to the learned counsel for the petitioner, though the detention order was passed on 30.01.2025, the booklet was served on the detainee only on 04.02.2025, 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 detainee was detained on 30.01.2025 through the detention order, the booklet was served only on 04.02.2025, which is on the sixth day. Under Section 8 (1) of the Tamil



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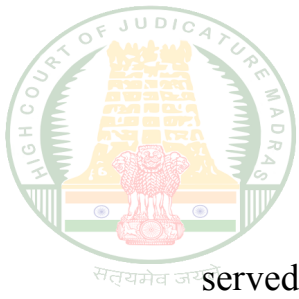
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Nadu Act 14 of 1982, the Detaining Authority is mandated to communicate the grounds of detention or booklet within a period of five (5) days. The computation of the period of five days was considered by the Coordinate Bench of this Court in the case 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.”

5. Thus, when the order of detention is taken into consideration for the purpose of computing five days period, the Detaining Authority has



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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*.

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. Accordingly, the detention order passed by the second respondent on 30.01.2025 in C.No.10/G/IS/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., R.Dhanasekar, aged about 29 years, S/o.Rethinapandiyan, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[V.L.N, J.]

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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M.S.RAMESH, J.
and
V. LAKSHMINARAYANAN, J.

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To

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Commissioner of Police/Detaining Authority,
Coimbatore City, Coimbatore District.

3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.

4.The Inspector of Police,
Cyber Crime Police Station,
Coimbatore District.

5.The Public Prosecutor,
High Court, Madras.

6.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.

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