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HCP.No.1295 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No. 1295 of 2025

Kalyani
W/o.Srinivasan

... Petitioner/
Mother of the detenu

Versus

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai – 600 009.
2. District Collector and District Magistrate of
Ranipet District, Ranipet – 1.
3. The Superintendent of Police,
Ranipet District, Ranipet.
4. The Superintendent of Prison,
Central Prison, Vellore.
5. The Inspector of Police,
Nemili Police Station,
Ranipet District.

.. Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus, to call for the records in connection with the order of Detention passed by the second respondent dated 24.06.2025 in B3/D.O.No.54/2025 against the petitioner's son Kishorkumar, male, aged 19 years, S/o.Srinivasan, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.R.Munniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

(Order of the Court was made by P.VELMURUGAN J.)

The petitioner, who is the mother of the detenu, Kishorkumar, S/o.Srinivasan, male, aged 19 years, has come forward with this petition challenging the detention order passed by the second respondent dated 24.06.2025 bearing reference in B3/D.O.No.54/2025, slapped on her son Kishorkumar, S/o.Srinivasan, male, aged 19 years, now confined in Central Prison, Vellore, branding him as "Goonda" under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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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 and the learned Additional Public Prosecutor appearing for the respondents.

3. In support of the affidavit, very many grounds have been raised but in the hearing, learned counsel for the petitioner mainly focused his arguments on two grounds viz., (i) there is live and proximate link between the grounds of detention and purpose of detention has snapped as the detenu was remanded to judicial custody on 23.05.2025 but the impugned detention order was passed on 24.06.2025; and (ii) the impugned preventive detention order had been passed on 24.06.2026 but the entire booklet was supplied on the detenu only on 30.06.2025, which violates Section 8(1) of Act 14 of 1982, which reads as follows:

'8. Grounds of order of detention to be disclosed to persons affected by the order.- (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on



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which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government. '

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4. The learned Additional Public Prosecutor sought to justify the delay by stating that though impugned detention order was passed on 24.06.2025, a copy thereof was furnished to the detenu on 25.06.2025 itself. He further submitted that time was consumed in collecting and collating the materials in this exercise. However, considering the facts and circumstances of the case and nature of ground case, we find that this explanation of learned Prosecutor is unacceptable.

5. Insofar as the first ground is concerned, in ***Sushanta Kumar Banik's*** case [***Sushanta Kumar Banik Vs. State of Tripura & others reported in 2022 LiveLaw (SC) 813 : 2022 SCC OnLine SC 1333***] which arose under 'Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988' [hereinafter referred to as 'PIT NDPS Act'] in Tirupura, after considering the proposal by the Sponsoring Authority and after noticing the trajectory the matter took, Hon'ble Supreme Court held



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that the 'live and proximate link between grounds of detention and purpose of detention snapping' point should be examined on a case to case basis. Hon'ble Supreme Court has held in **Banik** case law that this point has two facets. One facet is 'unreasonable delay' and other facet is 'unexplained delay'. We find that this matter falls under latter facet i.e., unexplained delay. Hence, on this ground, the detention order is liable to be quashed.

6. Insofar as the second ground is concerned, the point that arises for consideration is whether the date of detention should be included or excluded in computing this 5 days. To be noted, the date of detention in the case on hand is 24.06.2025. We are of the view that the date of detention has to be included for computing this 5 days and the reason is the ratio / principle laid down by Hon'ble Supreme Court in **Kapil Wadhawan's** case being **Enforcement Directorate, Government of India vs. Kapil Wadhawan and another** vide order dated 27.03.2023 in CrI.A.Nos.701-702 of 2020. While answering a reference on the question as to whether date of remand is to be excluded or included for computing 60/90 days qua Section 167(2) Cr.P.C. default bail, Hon'ble Supreme Court vide a detailed order declared that date of remand has to be included for computing 60/90 days. In **Kapil**



Wadhawan's case, the relevant paragraphs are paragraphs 6 and 50 which read as follows:

'6. The core issue that arises for consideration is whether the date of remand is to be included or excluded, for considering a claim for default bail, when computing the 60/90 day period as contemplated in proviso (a) of Section 167(2) of the Cr.P.C. The moot question has been considered by this Court in various cases, but there is a divergence of opinion on how the stipulated period, for the right of default bail, accruing to the accused, is to be computed. Some judgments have favoured the exclusion of date of remand, while a contrary view is taken in other cases.

50. Since there exists vacuum in the application and details of Section 167 Cr.P.C., we have opted for an interpretation which advances the cause of personal liberty. The accused herein were remanded on 14.05.2020 and as such, the charge sheet ought to have been filed on or before 12.07.2020 (i.e. the sixtieth day). But the same was filed, only on 13.07.2020 which was the 61st day of their custody. Therefore, the right to default bail accrued to the accused persons on 13.07.2020 at 12:00 AM, midnight, onwards. On that very day, the accused filed their default bail applications at 8:53 AM. The ED filed the charge sheet, later in the day, at 11:15 AM. Thus, the default bail Applications were filed well



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before the charge sheet. In Ravindran(supra) and Bikramjit (supra), which followed the Constitution Bench in Sanjay Dutt(supra) it was rightly held that if the accused persons avail their indefeasible right to default bail before the charge sheet/final report is filed, then such right would not stand frustrated or extinguished by any such subsequent filing. We therefore declare that the stipulated 60/90 day remand period under [Section 167](#) Cr.P.C. ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period, as we notice will extend beyond the permitted 60/90 days' period resulting in unauthorized detention beyond the period envisaged under [Section 167](#) Cr.P.C. In cases where the charge sheet/final report is filed on or after the 61st/91st day, the accused in our considered opinion would be entitled to default bail. In other words, the very moment the stipulated 60/90 day remand period expires, an indefeasible right to default bail accrues to the accused.'

7. The aforementioned ratio which has been laid down by Hon'ble Supreme Court speaks for itself. It is very clear that the date of detention has to be included. This means that 'not later than five days' expression occurring under Section 8(1) of Act 14 of 1982 in the case on hand would mean that it cannot be later than 28.06.2025. In the case on hand, the



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grounds on which the impugned preventive detention order was made was admittedly served on the detenu only on 30.06.2025. Therefore, there is no difficulty in coming to the conclusion that there is infraction of Section 8(1) of Act 14 of 1982. On this ground also, the impugned detention order is liable to be quashed.

8. In the result, this Habeas Corpus Petition is allowed and the detention order passed by the second respondent dated 24.06.2025 in B3/D.O.No.54/2025 is hereby set aside. The detenu viz., Kishorkumar, S/o.Srinivasan, male, aged 19 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[P.V.,J.] [M.J.R.,J.]
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Index: Yes/No
Neutral Citation: Yes/No
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Ranipet District.
 6. The Public Prosecutor
High Court, Madras.



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