



H.C.P.No.1432 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.1432 of 2025

Vijayakumar

... Petitioner/ detenue

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise (XVI)
Dept., Fort St.George, Secretariat,
Chennai - 600009.

2.The District Collector and District
Magistrate,
Office of the District Collector and
District Magistrate, Cuddalore
District.

3.The Superintendent of Police,
Office of the Superintendent of
Police, Cuddalore District.

4.The Superintendent of Prison,
Central Prison, Cuddalore.

5.The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

... 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 records in Detention order in No.C3/D.O/61/2025 dated 29.04.2025 on the file of the 2nd respondent and set aside the same and direct the respondents therein to produce the body of the petitioner/detenu Mr. Vijayakumar, S/o. Ayyasamy, aged 26 years, now confined in Central Prison at Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.M.Mohamed Saifulla

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

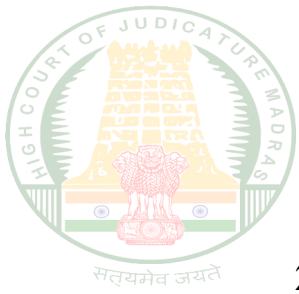
ORDER

M.S.RAMESH, J.

and

V. LAKSHMINARAYANAN, J.

The petitioner herein is the detenu namely Vijayakumar, S/o. Ayyasamy, aged 26 years, now confined in Central Prison at Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent dated 29.04.2025 issued against him, branding him as "Goonda" under 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 [Tamil Nadu Act 14 of 1982].



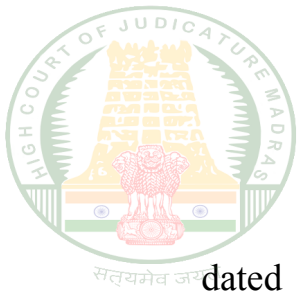
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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

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 29.04.2025, the booklet was served on the detainee only on 09.05.2025, 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 29.04.2025 through the detention order, the booklet was served only on 09.05.2025, which is on the eleventh day. 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,



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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 served it on the eleventh 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



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legally sustained.
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7. Accordingly, the detention order passed by the second respondent on 29.04.2025 in C3/D.O/61/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Vijayakumar, S/o. Ayyasamy, aged 26 years, now confined in Central Prison at Cuddalore, 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.]

07.08.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

Anu



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

Anu

To

1. The Secretary to Government,
Home, Prohibition and Excise (XVI)
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Magistrate,
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5. The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
6. The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary, Public (Law & Order),
Chennai – 600 009.

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