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HCP No. 1833 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

HCP No. 1833 of 2025

Selvam

Petitioner(s)

Vs

1. The State of Tamil Nadu
rep by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai.
- 3.The Inspector of Police,
D-6, Anna Square Police Station,
Chennai.
- 4.The Superintendent,
Central Prison, Puzhal,
Chennai.

Respondent(s)

**PRAYER**

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This Writ of Habeas Corpus has been filed under Article 226 of the Constitution of India to issue a writ of habeas corpus to call for the entire records, relating to the Petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 24.07.2025 on the file of the second respondent here made in proceedings No.491/BCDEFGISSSV/2025 and quash the same as illegal and consequently direct the respondents herein to produce the said Petitioner's son namely, Elumalai, aged 25 years, son of Selvam, before this Hon'ble High Court and set him at liberty, now Petitioner's son detained at Central Prison, Puzhal, Chennai-600066.

For petitioner : Mr. M.Mohamed Saifulla
for Mr.C.C.Chellappan

Respondent(s): Mr. A.Gokulakrishnan,
Addl. Public Prosecutor

ORDER

The petitioner, who is the father of the detenu Elumalai, male, aged 25 years, son of Selvam, has come forward with this petition challenging the detention order passed by the second respondent dated 24.07.2025 bearing



reference No. 491/BBCDEFGISSSV/2025 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 Additional Public Prosecutor appearing for the respondents.

3. Though several grounds have been raised by the petitioner in the habeas corpus petition assailing the detention order, in the hearing, learned counsel for petitioner submitted that live and proximate link between the grounds of detention and purpose of detention has snapped as the petitioner's son was remanded to judicial custody on 18.06.2025 but the impugned detention order has been passed on 24.07.2025.

4. Mr.A.Gokulakrishnan, learned State Additional Public Prosecutor,



submits to the contrary by saying that materials had to be collected /collated and time was consumed in this exercise. Considering the facts and circumstances of the case and nature of ground case, we find that this explanation of learned Prosecutor is unacceptable.

5. 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 'PIT NDPS Act' for the sake of brevity] in Tirupura, after considering the proposal by the Sponsoring Authority and after noticing the trajectory the matter took, Hon'ble Supreme Court held 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 the this matter falls under latter facet i.e., unexplained delay. Hence, on this ground, the detention order is liable to be set aside.



6. In the result, this Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent dated 24.07.2025 in Memo No. 491/BBCDEFGISSSV/2025 is hereby set aside. The detenu viz., Elumalai, son of Selvam, aged 25 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

N.S.K.,J.

M.J.R.,J.

03-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai.



3. The Inspector of Police,
D-6, Anna Square Police Station,
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4. The Superintendent,
Central Prison, Puzhal, Chennai.

5. The Public Prosecutor,
High Court of Madras, Chennai



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