



HCP(MD)No.28 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.03.2025

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.28 of 2025

Subramanian

.. Petitioner /Father of
the Detenu

Vs.

1. The State of Tamil Nadu,
Represented by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
O/o the Collector,
Sivagangai District.
3. The Superintendent,
Central Prison,
Madurai.
4. The Superintendent,
District Jail,
Ramanathapuram 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 entire records in detention passed in detention order in Cr.M.P.No.22 /Goonda/2024 dated 07.08.2024 passed by the 2nd Respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of petitioner's son, namely; Santhakumar, Male aged 26 years S/o.Subramanian [now detained at District Jail, Ramanathapuram] before this Court and set him at liberty.

For Petitioner :Mr.G. Karuppasamy Pandian

For Respondents :Mr.S. Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

This petition is filed challenging the detention order filed against the petitioner under Act 14 of 1982.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records.



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3. According to the Learned Counsel appearing for the petitioner, there is a delay of 2 1/2 months, between the date of arrest and date of detention order. There is no live and proximity for passing detention order. He further submitted that the remand order is not in vernacular language, likewise the remand extension order is also not in vernacular language. The personal search memo copies furnished to the detenu is not clear. These defects had deprived fair opportunity to the detenu to make representation against the detention order. He further submitted that the detaining authority had not properly applied his mind and he has cited irrelevant case for arriving at subjective satisfaction that there is likelihood of getting bail, whereas the bail petition of the petitioner was considered by the Hon'ble High Court and dismissed. Hence, referring a unsimilar case disposed by the District Court clearly exposes the non application of mind.

4. The Learned Additional Public Prosecutor had filed detailed counter affidavit and submitted that the petitioner is having four adverse cases of similar nature at different Districts. In the ground case, he has robbed jewels worth around Rs.23,00,000/-. The gravity of offence committed by the petitioner as warranted the detaining authority to impose



HCP(MD)No.28 of 2025

detention order. The conduct of the petitioner indulging in grave offence repeatedly put him under the category of habitual offender causing disturbance to the public order. Regarding delay in passing the detention order, the Learned Additional Public Prosecutor submitted that since there are four adverse cases against this petitioner pending in different jurisdiction, it took some time, the sponsoring authority to place it before the detaining authority. Regarding the remand order and extension of remand not been furnished in the vernacular language. It is admitted that the remand order and extension remand in English, but however, the detenu was produced before the Learned Magistrate. The reason for remand been explained to him and no prejudice caused to the petitioner for not furnishing the remand order in Tamil language.

5. This Court after giving anxious consideration of the plea raised by the Learned Counsel for the petitioner and the material placed before this Court to justify the detention order find that the adverse cases against the petitioner as well as the ground case would indicate that between 2023-2024 the petitioner been continuously involved in offence punishable under Sections 392 and 395 of IPC. The quantum of crime proceeds and the



HCP(MD)No.28 of 2025

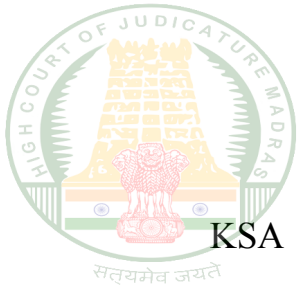
gravity of the crime clearly satisfy the definition of habitual offender and the nature of the offence is against the public order. Though there are some lapse and lacuna in the documents furnished to the detenu, they have not caused any prejudice to the detenu to make effective representation. The allegation of non application of mind in respect of possibility of getting bail, though appears to be factually correct, possibility of getting bail is not a sole ground and it cannot be a ground at all for imposing detention order. The possibility and apprehension of threat to public peace and order should be the test for justifying detention order.

6. In view of the above, there is enough material to be satisfied that the presence of the petitioner will cause danger to the public peace. The records and antecedent of the petitioner fortifies the above.

7. Accordingly, this Habeas Corpus Petition stands dismissed.

[G.J., J.] & [R.P., J.]
19.03.2025

NCC :Yes/No
Index:Yes/No
Internet:Yes/No



HCP(MD)No.28 of 2025

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Central Prison,
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Ramanathapuram District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.28 of 2025

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and

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