



H.C.P.(MD)No.456 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
08.10.2025	23.10.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

H.C.P.(MD)No.456 of 2025

Nagalakshmi

... Petitioner / Wife of Detenu

VS.

- 1.State of Tamil Nadu Rep. by its,
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Sivagangai,
Sivagangai District.
- 3.The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.



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

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent and made in his proceedings in Cr.M.P.No.07/S.O./2025 dated 23.02.2025 in detaining the detenu under the Tamil Nadu Act 14 of 1982 under Section 2(ggg) as a Goonda, quash the same and direct the respondents to produce the detenu namely, Karpagamoorthy, S/o.Venkadasalam, aged about 37 years, who is detained in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner

: Mr.E.Somasundaram
for Mr.B.Santhanam Rajesh Kumar

For Respondents

: Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

C.V.KARTHIKEYAN, J.

The petitioner is the wife of the detenu viz., Karpagamoorthy, aged about 37 years. The detenu has been detained by the second respondent in Cr.M.P.No. 07/S.O./2025, dated 23.02.2025, holding him to be a 'Sexual Offender', as

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contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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 produced by the Detaining Authority.

3. The learned counsel for the petitioner raised the following grounds:-

(i) He first contended that there were no adverse cases against the detenu. The detention order under the Tamil Nadu Act 14 of 1982 was based on the allegation that the detenu had committed aggravated sexual penetration of the daughter of the de-facto complainant, resulting in pregnancy. It was further alleged that the offence was committed on multiple occasions. In this connection, F.I.R. Crime No.1 of 2025 was registered by the All Women Police Station, Thiruppathur, Sivagangai, for offences punishable under Sections 5(l) and 5(j)(ii) read with Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The detenu was arrested on 15.01.2025. The learned counsel argued that the detention order, which was passed on 23.02.2025, was not proximate to



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the date of the alleged offence, and therefore, there was a break in the chain of causation.

The offence involved Sections 5(l) and 5(j)(ii) read with Section 6 of the POCSO Act, 2012, and the investigation necessitated a DNA test of the fetus following the medical termination of pregnancy of the victim child. The opinion of the medical expert was awaited, and only thereafter could the detaining authority arrive at subjective satisfaction, taking into account the seriousness of the offence. It is further relevant to note that the accused was known to the mother of the victim child, who was in a live-in relationship with him. Additionally, the victim child has sisters. All these factors were *germane* and required consideration when passing the detention order. Accordingly, we reject this ground urged by the learned counsel for the petitioner.

(ii) The second ground advanced by the learned counsel for the petitioner was that a representation had been submitted to the District Collector and placed before the Advisory Board, but the Advisory Board had rejected the petitioner's case. It was further contended that the order of rejection was not served on the detenu.



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In the counter affidavit filed, it was clearly stated that the reply was duly served on the detenu against proper acknowledgment, and the confirmation of the detention order was also served on the detenu through the third respondent. In view of the same, this ground is rejected.

(iii) The third ground urged by the learned counsel for the petitioner was that although the arrest of the detenu was intimated to his mother, the acknowledgment card was not received.

However, the records reveal that the detenu was taken into custody on 15.01.2025 at 03:00 p.m. The Arrest Intimation Form bears the signature of the detenu, and the information regarding the arrest was given to one Ganesan, whose address is recorded and who has been described as a friend of the detenu. Additionally, a Short Message Service (SMS) was sent to the cellphone number provided. In this connection, it is pertinent to note that a Full Bench of this Court, in **N.Fathima @ Laila vs. State of Tamil Nadu, represented by the Additional Chief Secretary to Government, Home, Prohibition and Excise Department and Others**, reported in **CDJ 2024 MHC 2704 : 2024 (1) LW (CrI) 521**,



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examined this very aspect. The Full Bench of this Court specifically held that it is not necessary to serve the arrest intimation to a friend of the detenu. The relevant portion of the said judgment reads as follows:-

"31. Hence, we answer Issue No:-1 as under:-

Non-Intimation of arrest to the relatives/friends in the ground case shall not be a ground to test the subjective satisfaction of the detaining authority. It shall be a point for consideration to test whether the detenu was anyway deprived of making effective representation against his detention. Failure to intimate the arrest in the ground case cannot be a ipso facto reason to hold the detention order illegal. In other words, non-intimation to relatives/friend about the arrest in ground case is not fatal to the detention order."

Therefore, we reject this ground urged by the learned counsel for the petitioner.

(iv) The fourth ground urged by the learned counsel for the petitioner related to the statement recorded from the victim child under Section 183 of B.N.S.S., 2023. The learned counsel contended that the age of the victim child was incorrectly mentioned by the learned Judicial Magistrate as 15 years as of 2025.



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However, to confirm the age of the victim child, the respondents produced the Aadhaar Card and the Birth Certificate of the victim child. We do not find any material to uphold the contention of the learned counsel that the learned Judicial Magistrate incorrectly stated the age of the victim child. The date of birth of the victim child is 06.09.2010, and the first statement was recorded on 21.01.2025. Although the victim child would have been 14 years old on that date, the mention of 15 years does not prejudicially affect the detenu. Furthermore, it is a fact that the detenu stood in the position of stepfather to the victim child and, therefore, cannot disclaim actual knowledge of her age. Hence, we reject this ground urged by the learned counsel for the petitioner.

(v) The next ground raised by the learned counsel for the petitioner was that the detention order was passed on the presumption that the detenu would file an application seeking bail, and that there was a possibility of bail being granted. The detaining authority had placed reliance on a similar case registered at the All Women Police Station, Sivagangai, in Crime No.3 of 2023, which pertained to offences under Sections 5(l), 5(j)(ii), and 5(n) read with Section 6 of the POCSO



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Act, 2012. The learned counsel for the petitioner submitted that although bail was granted in that case, the facts were distinguishable, particularly with regard to the age of the victim child.

The grant or refusal of bail lies within the discretion of the Court and depends on various factors. The detaining authority is required to consider the possibility of the detenu obtaining bail and must exercise caution while passing the detention order under the Tamil Nadu Act 14 of 1982. We do not agree with the learned counsel for the petitioner on this ground. Therefore, we reject this ground as well.

4. No other substantial grounds were raised. Hence, the Habeas Corpus Petition stands dismissed.

Index : Yes / No
NCC : Yes / No
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[C.V.K., J.] & [R.V., J.]
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To

- 1.The Additional Chief Secretary to Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Sivagangai,
Sivagangai District.
- 3.The Inspector of Police,
All Women Police Station,
Thiruppathur,
Sivagangai District.
- 4.The Superintendent of Prison,
Central Prison,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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PRE-DELIVERY ORDER MADE IN
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23.10.2025

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