



H.C.P.(MD)No.473 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2025

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.473 of 2025

S.Amutha

... Petitioner/
Mother of the Detenu

-VS-

1.State of Tamilnadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Habeas Corpus, calling for the entire records
connected with the detention order passed in M.H.S.Confdl.No.16/2025



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dated 21.02.2025 on the file for the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's son I.e., Venish Kumar, aged about 25 years, S/o.Subramanian, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by **G.K. ILANTHIRAIYAN,J.**)

The petitioner is the mother of the detenu viz., Venish Kumar, son of Subramanian, aged about 25 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No. 16/2025, dated 21.02.2025 holding him to be a "Goonda", as contemplated under Section 2(f) of 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



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respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner raised the grounds that the detenu was arrested and remanded to judicial custody on 18.01.2025 in pursuant to the registration of the FIR in Cr.No.35 of 2025 for the offence under Sections 126(2), 296(b), 103(1), 351(3) BNS and thereafter, on the next day the very same police has registered a case in Cr.No.69 of 2025 for the offences under Sections 296(b), 309(4), 311, 351(3) BNS. It was shown as ground case. However, the detention order was passed only on 21.02.2025 after a period of 34 days. This inordinate delay in passing the detention order would vitiate the same. He further submitted that there is no live and proximate link between the date of arrest and the date of the detention order. Hence, on this ground, the present impugned detention order is also liable to be set aside.

4. On a perusal of the counter affidavit and also the submission made by the learned Additional Public Prosecutor appearing for the respondents reveals that the detenu committed murder on



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17.01.2025 and the FIR has been registered in Cr.No.35 of 2025, pursuant to the registration of the FIR, the detenu was arrested and remanded to judicial custody on 18.01.2025. On the next day another FIR in Cr.No.69 of 2025 has been registered by the very same police station. However, the detenu was detained under Act, 14 of 1982 only on 21.02.2025. This shows an inordinate delay in passing the detention order, which is also unexplained. The live and proximate link between the arrest of the detenu and the need for passing the order of detention has snapped. Thus, on this sole ground alone, the impugned order of detention is liable to be set aside.

5. In the case of *Sushanta Kumar Banik vs. State of Tripura*, reported in *2022 SCC Online (SC) 1333*, when there was an inordinate delay from the date of proposal till passing of the detention order and likewise, between the date of actual arrest and the date of detention order, the Honourable Supreme Court has held that the live and proximate link, between the grounds and the purpose of detention, stands snapped throwing a considerable doubt on the genuineness of the



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requisite satisfaction of the detaining authority in passing the detention order unless such delay is satisfactorily explained and consequently making it invalid. The relevant portion is extracted hereunder:-

"20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the "live and proximate link" between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case."



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6. In view of the above, as pointed out by the counsel for the petitioner, the delay has not been satisfactorily explained, thereby vitiating and invalidating the detention order.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.16/2025, dated 21.02.2025, passed by the second respondent is set aside. The detenu, viz., Venish Kumar, son of Subramanian, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[G.K.I., J.] [R.P., J.]

10.12.2025

am

NCC :Yes/No

Index: Yes/No

Internet: Yes/No



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Secretariat, Chennai - 600 009.
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Tirunelveli.
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Central Prison,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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AND
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