



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED :30.04.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS JUSTICE R.POORNIMA**

H.C.P(MD)No.694 of 2024

Madasamy @ Mahesh

(Now the Petitioner is confined at
Central Prison, Palayamkottai)

... Petitioner/Detenu

.Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise(XIV) Department,
Secretariat, Chennai – 600 009.

2.The District Collector,
and the District Magistrate,
Thoothukudi District,
Thoothukudi.

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

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying this Court to call for the entire records connected with the



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detention order of the second respondent in H.S(M)Confdl.No.52/2024, dated 8.5.2024 and to quash the same and to direct the respondents to produce the detenu by name Madasamy @ Mahesh, son of Murugan, aged about 28 years, now detained at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

For Respondents : Mr.E.Antony Sahaya Prabahar
1 to 3 Addl.Public Prosecutor

ORDER

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The Habeas Corpus Petition is filed seeking a direction to call for the entire records connected with the detention order of the second respondent in H.S(M)Confdl.No.52/2024, dated 8.5.2024 and to quash the same and to direct the respondents to produce the detenu by name Madasamy @ Mahesh, son of Murugan, aged about 28 years, now detained at Palayamkottai Central Prison before this Court and set him at liberty forthwith.

2.Heard the learned counsels appearing on either side and perused the



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materials placed before this Court.

3.The Petitioner herein who is an accused in a POCSO case was arrested on 12.4.2024. He was detained preventively on 8.5.2024.The present petition is filed to quash the detention order on the ground that the statement of the victim girl not furnished to the detenu to make effective representation before the Advisory Board. The copy of the Remand Extension Order not furnished to the detenu. Though he was arrested for the alleged offence on 12.4.2024,the detention order was passed on 8.5.2024 after nearly 25 days and there is no fair and live proximity.The Petitioner had not filed any bail petition, however, the detention order states that there is likelihood of coming out on bail. This clearly indicates that there is no application of mind and the detention order was passed mechanically without perusing the documents.

4.This Court, on perusing the record and the counter filed, find that the complainant is the paramour of the accused.The victim is the daughter of the complainant. The victim, complainant and the accused are living under one roof and the complaint as well as the statement of the victim girl recorded by the



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Magistrate indicates that there was sexual assault on the minor child who was studying in 8th standard in a Government School. The Detaining Authority had considered that the presence of the accused will jeopardise the public order. His antecedents also gives a bonafide belief that his act will be prejudicial to the maintenance of public order. Recourse to normal course will not have the desired effect on the accused who has involved in such sexual offence against the child. Hence there are compelling necessity to detain him preventively. Though it is a solitary case against the Petitioner, the allegation made against him clearly indicates that he had been arrested on the complaint given on behalf of a minor child for sexual assault, when the child was under his care.

5. The information furnished by the learned Additional Public Prosecutor indicates that though the trial has commenced, the detenu had not cross examined the victim child. This Court to ensure that the threat to the public and victim child in particular should not be there, the matter was adjourned from time to time to find out whether the detenu completed the cross examination of the victim child. Till date, the detenu had not cross examined the victim child and the next date of hearing is 13.5.2025 for cross examination of P.W.2(victim



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child). In the case of this nature, when the custodian himself had committed the sexual offence against the minor child, certainly the incident will shock the conscious of general public and create fear and apprehension in the mind of any parents who have minor child. Therefore subjective satisfaction of the Executive Magistrate/Detaining Authority cannot be faulted as non-application of mind. The other grounds which are trivial in nature will not stand gain to interfere with the detention order passed by he District Collector based on the recommendation made by the Sponsoring Authority.

6.Hence the Habeas Corpus stands dismissed.

[G.J.,J.] [R.P.,J.]
30.04.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No

vsn

To

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise(XIV) Department,
Secretariat, Chennai – 600 009.

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2.The District Collector,
and the District Magistrate,
Thoothukudi District,
Thoothukudi.

3.The Superintendent of Prison,
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Tirunelveli District.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA, J.

vsn

ORDER MADE IN
H.C.P(MD)No.694 of 2024

30.04.2025