



HCP(MD)No.536 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 08/12/2025

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THE HONOURABLE **MR JUSTICE G.K.ILANTHIRAIYAN**
AND
THE HONOURABLE **MS JUSTICE R.POORNIMA**

HCP(MD)No.536 of 2025

A.P.Rajan : Petitioner/Father of the Detenu

Vs.

- 1.The State of Tamil Nadu,
The Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The District Collector-cum-District Magistrate,
Office of the District Collector-cum-District Magistrate,
Nagercoil, Kanyakumari District.
- 3.The Superintendent of Prison,
Central Prison, Palayamkottai,
Tirunelveli District.

: Respondents

Prayer:- This Habeas Corpus Petition is filed under Article 226 of the Constitution of India, calling for the records pertaining to the detention order in P.D.No.07/2025, dated 28/03/2025 passed by the 2nd respondent and set aside the same by setting the detenue namely Ajithkumar, s/o.Rajan, aged 32 years and set him at liberty, now detained at Central Prison, Palayamkottai, Tirunelveli and pass such other orders.



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For Petitioner : Mr.P.Sivabalan
for Mr.A.Nagendran

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

ORDER

(Order of the Court was made by the Hon'ble **G.K.ILANTHIRAIYAN.J.**)

The petitioner is the father of the detenu. The detenu has been detained by the second respondent, by his order in P.D No.07/2025, dated 28/03/2025 holding him to be a “Sexual Offender ” as 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 detenu was arrested, on 17/03/2025 and remanded to judicial custody in pursuant to the registration of the FIR in Crime No.229 of 2025 on the file of the Thuckalay Police Station under Girl Missing @ 5(1), 6, 9(m), 10, 7, 8 of POCSO Act, 2012 and Section 96, 64, 351(2) of



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BNS, 2023. Thereafter, the Investigating Officer recommended the detenu/accused for detaining him under Act 14 of 1982 and accordingly, the Detaining Authority detained the detenu under Act 14 of 1982, by the impugned order, dated 28/03/2025.

4.The learned counsel for the petitioner submits that the Detaining Authority stated in the ground, while passing the order of detention that there is a possibility of coming out of bail by the detenu. So far, the detenu did not file any application for bail. Further, the order of detention was passed, on 28/03/2025 and the same was served to the detenu on 29/02/2025 and it was approved by the State Government, on 28/03/2025 itself. In fact, the detenu was informed that he can make a representation within a period of 12 days from the date of the detention order to reconsider the order of detention. However, without giving any opportunity to the detenu to submit his representation, on the date of the detention order itself, it was approved by the State Government and thereby, the detenu was deprived in submitting the effective representation to reconsider the order of detention. He further submits that there are two cases against the detenu, however, in the ground case, the detenu was detained by pick and choose method and there is



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absolutely no explanation by the Sponsoring Authority for passing the detention order by pick and choose method, when both the accused are standing in the same footing. Both the petitioner and the detenu are Advocates. Marriage was fixed between the detenu and the daughter of one Senthil Kumar, who is working as a Head Constable in Asaripallam Police Station. But due to some reasons, the marriage proposed to be solemnized on 16/03/2025 was stopped. Due to which, the detenu was detained with the influence of the said Head Constable Senthilkumar.

5.On perusal of the counter affidavit filed by the second respondent and on the submissions made by the learned Additional Government Pleader reveals that the order of detention was passed on 28/03/2025 and it was served on the detenu on 29/03/2025. On the very same day of passing the detention order, the Detaining Authority sent the detention order to the State Government for approval. Thereafter, it was approved only on 08/04/2025.

6.Though in the ground of detention order, the Detaining Authority stated that the detenu can submit his representation within a period of 12 days before the approval of the detention order, Section 3(3) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law



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Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic

Offenders, Sand Offenders, Sexual Offenders, Slum-grabbers and Video

Pirates Act, 1982 says that when any order is made by an Officer i.e., the the Detaining Authority, shall forthwith report the facts to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof. Thus, it is clear that the Detaining Authority shall have to send the detention order within a period 12 days. It does not mean that the detenu has to submit his representation to reconsider the order of detention within a period of 12 days. Only after the approval of the detention order, the State Government will send the order of detention and the grounds of detention to the Advisory Board to conduct enquiry as contemplated under Section 10 of the Act. On receipt of the entire records, the Advisory Board by giving opportunity of hearing to the detenu or his family members, forwarded a report to the State Government for confirmation as contemplated under Section 12 of the Act. In the meantime, the detenu can submit his representation to reconsider the order of detention. Therefore, the contention of the learned counsel for the petitioner cannot be countenanced.



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7. In so far as the other grounds raised by the learned Counsel for the petitioner, it cannot be considered since the detenu involved in very serious and heinous offence against 14 years old minor victim child.

8. On perusal of the statement of the victim child reveals that on the pretext of legal advice, the detenu committed the aggravated penetrative sexual assault on the minor victim child. That apart, the second accused is not standing in the same footing of the detenu. He had only given shelter to the minor victim child and there is no specific allegation against the second accused. Therefore, it cannot be stated that the Sponsoring Authority, sponsored the detenu by using pick and choose method.

9. In view of the above, this Court finds no ground to interfere with the impugned order of detention passed by the detaining authority. Accordingly, this Habeas Corpus Petition is **dismissed**.

(G.K.I., J.) (R.P., J.)
08-12-2025

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G.K.ILANTHIRAIYAN,J
and
R.POORNIMA,J

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To,

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagercoil, Kanyakumari District.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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