



H.C.P.(MD)No.573 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2025

CORAM:

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

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Marimuthu ... Petitioner/cousin brother of the detenu

-VS-

- 1.State of Tamil Nadu
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
 - 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Sivagangai District, Sivagangai.
 - 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai-625016.
 - 4.The Superintendent of Prison,
Theni District Jail,
Theni.
- ... Respondents



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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 of the Respondent No.2 in Cr.M.P.No. 53/Goonda/2025, dated 29.04.2025 and quash the same and direct the respondents to produce the body or person of the detenu by name Sakthivel, son of Muniyandi, aged about 20 years, now detained as “Goonda” at Theni District Jail before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Suresh Kumar
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 cousin brother of the detenu viz., Sakthivel, son of Muniyandi, aged about 20 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No. 53/Goonda/2025, dated 29.04.2025 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.



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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 appearing for the petitioner would submit that the order of detention was passed on 29.04.2025 and the detention order was sent to the Government for approval only on 03.05.2025 and the same was approved by the Government on 09.05.2025. In this regard, he relied on Section 3(3) of the Tamil Nadu Goondas Act, 14 of 1982. Accordingly, the detaining authority has to send the order of detention for approval to the government forthwith.

4. It is relevant to extract the Section 3(3) of the Tamil Nadu Act 14 of 1982:-

“3(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have



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a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government.”

5. It is seen from the records that in this case, the order of detention was passed on 29.04.2025 and the same was sent to the Government only on 03.05.2025 and the same was approved by the Government on 09.05.2025. The date of detention order 29.04.2025 is falls on Tuesday, however, the detaining authority had taken four days time for sending the same to the Government for approval.

6. The learned counsel for the petitioner also raised a ground that except one accused, all other accused were arrested on 23.03.2025 in pursuant to the registration of the FIR in Cr.No.155 of 2025 registered for the offence under Sections 191(2), 191(3), 126(2), 109(1), 103(2) Bharatiya Nyaya Sanhita, 2023 @ 191(2), 191(3), 126(2), 109(1), 103(2), 61(2) Bharatiya Nyaya Sanhita, 2023. However, the detention order was passed on 29.04.2025 and hence, there was a delay of nearly 36 days in



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passing the detention order. 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 these sole grounds, the impugned order of detention is liable to be set aside.

7. 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 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



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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.”

8. 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.

9. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.53/Goonda/2025, dated 29.04.2025,



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passed by the second respondent is set aside. The detenu, viz., Sakthivel, son of Muniyandi, aged about 20 years, is directed to be released forthwith unless his detention is required in connection with any other case.

10. It is also made clear that if any bail application filed by the detenu, the trial Court is directed to dispose the bail application on its own merits and in accordance with law, without influencing any of the observation made by this Court.

[G.K.I., J.] [R.P., J.]
09.12.2025

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



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