



HCP(MD)No.738 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

and

THE HONOURABLE MS.JUSTICE R.POORNIMA

HABEAS CORPUS PETITION(MD)No.738 of 2025

Radha

... Petitioner

vs.

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai- 600 009.

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

3. The Superintendent of Prison
Central Prison,
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in Detention order No. 15 of 2025 dated 16.04.2025 and quash the same and direct the respondents to produce the detenue by name Prakash, son of Balu, aged about 20 years now detained as sexual offender at Madurai Central Prison before this court and set him at liberty forthwith.



HCP(MD)No.738 of 2025

WEB COPY

For Petitioner : Dr.R.Alagumani

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

ORDER

[Order of the Court was made by **G.K.ILANTHIRAIYAN, J.**]

This Habeus Corpus Petition has been filed to quash the detention order passed by the second respondent in Detention order No. 15 of 2025 dated 16.04.2025 and direct the respondents to produce the detenu or body of the detenu namely the Prakash, son of Balu, aged about 20 years who is detained at Central Prison, Madurai and set him at liberty forthwith.

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.



HCP(MD)No.738 of 2025

3. The detenu was arrested on 01.03.2025 in Crime No. 9 of 2025 registered for the offences under Sections 87,127(2), 70(1), 115(2), 351(2) of BNS and Section 4 of TNPHW Act. Thereafter, the sponsoring authority, who is the investigating agency of this crime had sent a request to detain the petitioner under Act 14 of 1982.

4. The learned counsel appearing for the petitioner raised the following grounds challenging the order of detention:

a) arrest information was not property translated, wherein one portion was written in English and another portion was written in tamil;

b) the petitioner was detained in pursuance of the registration of only one case and as such there is only solitary instance to attract the detenu to detain under Act 14 of 1982;

c) Detention order dated 16.04.2025 referred to G.O.No.(D) 37, Home Prohibition and Excise (XVI) Department, dated 09.01.2025, wherein under sub Section (2) of Section 3 of the said Act, the District Collector was delegated power to detain the detenu under Act 14 of 1982, however, the detenu was served with the copy of G.O.No.31,



HCP(MD)No.738 of 2025

Home, Prohibition and Excise (XVI) Department, dated 09.01.2025,

under which power was delegated to the District Collector, Ramanathapuram pertaining to the other case, therefore the detenu could not be able to submit his effective representation to reconsider the order of detention;

d) The detenu submitted representation on 19.06.2025 to reconsider the order of detention, however, the rejection order was dispatched only on 25.06.2025 and there was delay in considering the representation.

e) He also submitted that there was a delay in passing the detention order since the detenu was arrested on 01.03.2025 and the detention order was passed only 16.04.2025.

5. The learned Additional Public Prosecutor filed counter and stated that though there was solitary instance for the detenu, the detenu along with others have committed gang rape and thereby he committed very serious and heinous offence as against the women and it would amount to crime against society, therefore in order to detain the detenu under Act 14 of 1982 solitary instance is enough. Further, there was no



HCP(MD)No.738 of 2025

delay in considering the representation submitted by the detenu to reconsider the order of detention. The representation was received by the detaining authority on 23.06.2025 and it was rejected by the detaining authority on 27.06.2025 and the same was served to the detenu on the same day, therefore, there was no delay in considering the representation submitted by the detenue.

6. Though this Court is satisfied with the submission of the learned Additional Public Prosecutor in so far as the delay in considering the representation submitted by the detenue and there is solitary instance for the detenue, the detaining authority referred to the power delegated to the detaining authority to pass the order of detention by way of G.O.No.(D) 37, Home Prohibition and Excise (XVI) Department dated 09.01.2025 under sub Section (2) of Section 3 of the said Act, however the detenu was served with the copy of G.O.No.31, Home, Prohibition and Excise (XVI) Department dated 09.01.2025, which pertains to the District Collector, Ramanathapuram thereby, delegating power to the detaining authority to detain some other accused, which shows the complete non application of mind on the part of the detaining authority while serving



HCP(MD)No.738 of 2025

the document which were relied up to pass detention order, therefore the detenue could not be able to submit his representation effectively to reconsider the order of detention.

7. In this regard the Principal Bench of this Court already held in HCP No.2212 of 2025 dated 24.11.2025 in the case of ***Vaishnavi .vs. The State of Tamil Nadu Rep. By its Principal Secretary Home, Prohibition and Excise Department Secretariat Complex Chennai - 600 009 and others*** , wherein it is held as follows:

3.Though several grounds have been raised in the petition, the learned counsel for the petitioner in the hearing submitted that the order of detention passed by the Detaining Authority is vitiated for material irregularities, as the copy of the Government order pertaining to Delegation of Powers was not given to the detenu, which prevented him from making an effective representation and therefore, the impugned detention order is liable to be set aside.

4. On a perusal of Booklet served on the detenu, it is seen that copy of the Government Order is not enclosed in the booklet. Therefore, this Court is of the view that non-furnishing of copy of the vital document relied upon by the Detaining



HCP(MD)No.738 of 2025

Authority to arrive at a subjective satisfaction, would deprive the detenu of his valuable right to make effective representation. Therefore, on this ground alone, the detention order passed by the Detaining Authority is vitiated.

5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in 'Povanammal Vs. State of Tamil Nadu' reported in '(1999) 2 SCC 413'. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22[5] of the Constitution, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held in Paragraphs 9 and 16 {as in SCC journal} as follows:

“9.However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the nonsupply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the



opportunity of making an effective representation against the order. But it would not be so where the document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu, should the document be in a different language. 16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

8. The above case is squarely applicable to the present case and on this sole ground alone the order of detention cannot be sustained and it is liable to be quashed.



HCP(MD)No.738 of 2025

WEB COPY

9. The accused was arrested on one date and after a period of some time the order of detention was passed. The delay for the same are, sponsoring authority have to collect materials and thereafter, recommend to detain the accused under Act 14 of 1982. After registration of the First Information Report the victim girl has to be subjected for medical examination. Further, after recording statement from all the witnesses including the victim under Section 183 of BNSS and they have to collect medical report. Therefore, the delay in passing order of detention in the sexual offences case can be considered for the reason that materials have to be furnished to the detaining authority while making the request for detaining under Act 14 of 1982.

10. In view of the aforesaid reason, the detention order passed by second respondent dated 16.04.2025 in Detention Order No.15 of 2025 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Prakash, son of Balu, aged about 20 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.



HCP(MD)No.738 of 2025

11. It is made clear that this Court cautiously does not want to go into the facts of the case and nature of crime committed by the detenu.

Though this Court quash the order of detention it does not mean that the trial Court have to grant bail to the detenu. Further, the trial Court is directed to consider the bail application, if any, filed by the detenu on its own merits in accordance with law without being influenced by any of the observations made in this order by this Court.

[G.K.I., J.] [R.P., J.]
03.12.2025

Index : Yes / No
Neutral Citation : Yes / No
aav

To:

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



WEB COPY



HCP(MD)No.738 of 2025

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

aav

HCP(MD)No.738 of 2025

DATED : 03.12.2025