



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

DATED :12.03.2025

CORAM:

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

H.C.P(MD)No.1147 of 2024

Chelladurai

... Petitioner/Detenu's father

.Vs.

- 1.The State of Tamil Nadu, represented by its
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
 - 2.The District Collector,
And the District Magistrate,
Thoothukudi District,
Thoothukudi.
 - 3.The Superintendent,
Central Prison,
Palayamkottai.
- ... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying this Court to call for the records relating to the Detention Order passed by the second respondent in Detention Order H.S(M) Confdl.NO.105 of



WEB COPY

2024, dated 19.07.2024 and to quash the same and consequently to direct the respondents to produce the body or detenue namely, Muniya Prabhakaran, son of Chelladurai, aged about 25 years(now detained at Central Prison, Palayamkottai) before this Court and set him at liberty.

For Petitioner : Mr.P.Banuprasath

For Respondents : Mr.S.Ravi
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 records relating to the Detention Order passed by the second respondent in Detention Order in H.S(M) Confdl.NO.105 of 2024, dated 19.07.2024 and to quash the same and consequently to direct the respondents to produce the body or detenue namely, Muniya Prabhakaran, son of Chelladurai, aged about 25 years(now detained at Central Prison, Palayamkottai) before this Court and set him at liberty.



WEB COPY

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The Petitioner is the father of the detenu, aged 25 years. In view of the complaint against him for the offence under Section 5(1), 5(j)(ii) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012, a case has been registered against him in Crime No.7 of 2024 on 23.6.2024. Considering the gravity of the offence and possibility of the detenu coming out on bail, the detention order was passed on 19.07.2024. Being aggrieved, the present Habeas Corpus Petition is filed by the father of the detenu, on the ground that the Detaining Authority has not applied his mind while passing the Detention Order. There is no reason stated as to how he had arrived at the subjective satisfaction that the detenu is acting in the manner prejudicial to the maintenance of the public order. Further also submitted that neither the Investigation Officer or the Detaining Authority had collected the proof for the age of the victim to be satisfied that the victim is a minor. To attract the offence under the POCSO Act, three grounds raised in the Habeas Corpus Petition is that the legible copies of remand and remand extension order is not furnished and the reference to bail



WEB COPY

order granted to some other accused is not factually not similar to the case, for which, the detenu was arrested.

4.A detailed counter been filed by the second respondent/the Detaining Authority stating that the age of the victim was ascertained by the Sponsoring Authority by getting the Birth Certificate of the victim, which indicates that her date of birth is 25.06.2007. At the time of complaint, the victim was also pregnant carrying three months fetus. The detenu is a married man, had enticed the minor victim and impregnated her. In the case of this nature, if the detenu is released on bail, it will cause prejudice to the public peace in the locality and therefore, only on satisfaction, the detention order was passed. It is also submitted that as far as the allegation of furnishing of illegible copies, it is stated that clean copy was annexed with the photo copy of the remand extension order and the said document seems to be legible for a normal human being to read and understand.

5.This Court, considering the submissions made by the learned counsel for the Petitioner as well as the learned Additional Public Prosecutor appearing for the respondents/State find that the detention order, dated 19.07.2024 does not



WEB COPY

disclose any particulars about the bail application filed or to be filed by the detenu. The likelihood of the detenu coming out on bail cannot be the sole ground for invoking the preventive detention. The facts of the case also does not indicate that the detenue has the propensity to commit the alleged offence against the children in general. It appears to be a instagram love developed between the detenu and the victim, who was aged about 17 years old at the time of occurrence. This Court finds that the detention order reflects non-application of mind on the part of the detaining authority and hence, the detention order is liable to be quashed.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in Detention Order No. H.S(M)Confdl.No.105 of 2024, dated 19.07.2024, passed by the second respondent, is set aside. Consequently, the detenu, namely, Muniya Prabhakaran, son of Chelladurai, aged about 25 years, who is now detained at Central Prison, Palayamkottai is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.



WEB COPY

[G.J.,J.] [R.P.,J.]
12.03.2025

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

vsn

To

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector,
And the District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent,
Central Prison,
Palayamkottai.

Copy to

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



WEB COPY



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

vsn

ORDER MADE IN
H.C.P(MD)No.1147 of 2024

12.03.2025



WEB COPY