



HCP(MD)No.1001 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 03/12/2025

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

HCP(MD)No.1001 of 2025

S.Ganesha Moorthi : Petitioner/Father of the detenue

Vs.

1.State represented by.

The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai-9.

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

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 from the second respondent H.S(M)Confdl. No.40 of 2025, dated 26/04/2025 by setting aside the said order of detention passed by the second respondent and setting the detenue Shanmugaraj, S/o.Ganesha Moorthi, aged about 29 years at



HCP(MD)No.1001 of 2025

liberty now detained in the Central Prison, Palayamkottai and to pas such further or other orders.

For Petitioner : Mr.K.Prabhu

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 detenue viz, Shanmugaraj, S/o.Ganesha Moorthi, aged about 29 years. The detenue has been detained by the second respondent by his order in H.S(M)Confdl No.40 of 2025, dated 26/04/2025 holding him to be a “Goonda” as contemplated under Section 2(f) 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.



HCP(MD)No.1001 of 2025

3.The detenue was arrested and remanded to judicial custody on 31.03.2025 in Crime No.114 of 2025 on the file of the Inspector of Police, Kayathar Police Station for the offences under Sections 296(b), 103(1), 351(3) of BNS and thereafter, the Investigating Officer recommended the detenue/accused for detaining him under Act 14 of 1982 and accordingly, the Detaining Authority detained the detenue under Act 14 of 1982, by the impugned order, dated 26/04/2025.

4.The learned counsel for the petitioner would submit that the remand extension order was not served to the detenue and as such, he was not able to submit an effective representation to reconsider the order of detention. Further, the detenue never filed any application seeking bail. Therefore, there is absolutely no satisfying reason to detain the detenue under Tamil Nadu Act 14 of 1982. In support of his contention, he has also placed reliance upon the decisions of this Court made in HCP(MD)No.116 of 2025, dated 09/07/2025 (S.Mariammal Vs. The State and others); and HCP No.1140 of 2025, dated 25/09/2025 (Varalakshmi Vs. State and 3 others).



HCP(MD)No.1001 of 2025

5.The learned Additional Public Prosecutor filed a counter and also submits that the remand extension order particulars were duly furnished to the detenu in the form of book let and he knows that his remand was extended from time to time.

6.However, perusal of the representation, dated 12/08/2025 submitted by the petitioner to reconsider the order of detention of the detenu reveals that the petitioner has categorically submitted about the non-furnishing of the remand extension order from 09/04/2025 to 07/05/2025. Therefore, the petitioner was not able to make an effective representation to reconsider the order of detention.

7.In the case of ***S.Mariammal Vs. the State and others (HCP(MD)No.116 of 2025, dated 09/07/2025)***, this Court has held as follows:-

“5.On a perusal of the Booklet, it is seen that the remand extension copy has not been furnished to the detenu. Non furnishing of remand extension copy, which is a vital document would deprive the detenu making effective representation to the authorities against the order of detention.



*6. In this context, it is useful to refer to the Judgment of the Honourable Supreme Court in the case of **Powanammal Vs. State of Tamil Nadu**, reported in (1999) 2 SCC 413, wherein the Apex Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenu should be afforded an opportunity of making a 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. The relevant point of the said decision is extracted hereunder:-*

"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 non-supply 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.

...

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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."

7. We find that the above cited Powanammal's case applies in all force to the case on hand as we find that remand extension copy was furnished to the detenu. The non furnishing of remand extension copy to the detenu, has impaired his constitutional right to make an effective representation against the impugned preventive detention order. To be noted, this constitutional right is ingrained in the form of a safeguard in Clause (5) of Article 22 of the Constitution of India. We, therefore, have no hesitation in quashing the impugned detention order."



HCP(MD)No.1001 of 2025

8.The above case squarely applies to the case on hand. On the sole ground, we have no hesitation in quashing the impugned detention order.

9.In the result, the Habeas Corpus Petition is **allowed** and the order of detention in H.S(M)Confdl. No.40 of 2025, dated 26/04/2025 passed by the second respondent is set aside. The detainee viz., Shanmugaraj, S/o.Ganesha Moorthi, aged about 29 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(G.K.I., J.) (R.P., J.)
03-12-2025

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HCP(MD)No.1001 of 2025

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

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To,

- 1.The Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Secretariat,
Chennai-9.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

HCP(MD) No.1001 of 2025

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