



HCP(MD)No.1274 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On: 20.03.2025  
Delivered On: 28.03.2025

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.1274 of 2024

Gurmukh Singh

.. Petitioner /Father of  
the Detenu

Vs.

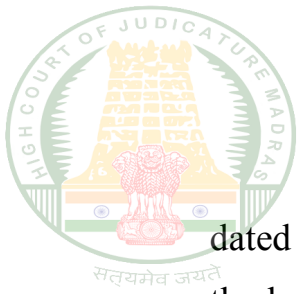
1.The Additional Chief Secretary to the Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai-600 009.

2.The District Collector and District Magistrate,  
Office of the Collector and District Magistrate,  
Theni District, Theni.

3.The Superintendent of Prison,  
Madurai Central Prison,  
Madurai District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, to issue a writ of Habeas Corpus, to call for the entire records connected with the detention order of the respondent No.2 in Detention Order No.51/2024



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dated 23.08.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Abhijeet Singh, son of Gurmukh Singh, aged about 36 years, now confining as “Cyber Law Offender: at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner :Mr.Dr.R.Alagumani

For Respondents :Mr.S.Ravi  
Additional Public Prosecutor

### **ORDER**

**DR.G.JAYACHANDRAN, J.**

**AND**

**R.POORNIMA, J.**

The petitioner herein is the father of the detenu by name Abhijeet Singh. He is a native of Punjab, residing at New Delhi. The petitioner's son was arrested on 25.07.2024 in connection with the criminal case under investigation in Cr.No.20 of 2024 by the Cyber Crime Police, Theni District, in Tamilnadu, on the written complaint submitted by one Bhanumathi alleging that she had been duped to part away a total sum of Rs.84,50,000/- through a cyber fraud gang. Since part of the crime money tune of rupees about Rs.12,14,000/- had gone into the current account maintained by the Abhijeet Singh in the name of M/s Creative Craaft. Hence, he is suspected to be one of the member of the cyber crime gang.



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2. After his arrest in the said case, the material collected in the course of the investigation, it has come to light that the said Abhijeet Singh had created four companies in his name and his family members' name and opened multiple bank accounts to slash the cheated money. The Inspector of police, Cyber Crime Branch had sponsored the preventive detention of Abhijeet Singh, son of the petitioner under Act 14 of 1982. Based on the recommendation and the records furnished, the District Collector, who is the detaining authority, had passed the detention order on 23.08.2024. On receipt of the detention order and the documents, representation to the detaining authority made on behalf of the detenu, on 02.09.2024. Meanwhile, the detention order and records were placed before competent authority for confirmation and the same got confirmed on 03.09.2024. The Advisory Board which met on 25.09.2024 and affirmed the opinion formed by the detaining authority. The Government, vide order dated 09.11.2024, confirmed the detention and ordered to be detained prevently for a period of 12 months. Besides, rejecting the representation dated 12.10.2024 sent directly to the Government.



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3.The father of the detenu through this Habeas Corpus Writ Petition, challenging the detention order on the ground that the detention order suffers gross violation of Article 22(5) of the Indian Constitution as well as the procedures laid under Section 3(3) and section 10 of Act 14/1982.

4.According to the learned counsel appearing for the petitioner, the detention order after one month of the arrest in the ground case fails the live and proximity test. Except the ground case, there is no bad antecedent to preventively detain the son of the petitioner under Act 14 of 1982. There is no proper application of mind by the authorities before passing the detention order and its confirmation. The detenu hails from Punjab and his mother tongue is Punjabi. Whereas he was served with documents in Tamil and English and few documents in Hindi. No fair opportunity was given to him to make representation and the representation given was not duly considered.

5.According to the learned counsel, the documents connected with the detention order were served on him within 5 days as mandated under the Act. It was given to him belatedly, hence, he was able to submit his



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representation to the detaining authority only on 02.03.2024. The said representation was neither considered by the detaining authority, nor placed before the advisory board and the Government for their valuable consideration. The notice for hearing by the Advisory Board dated 23.09.2024 was served to the petitioner living at Delhi only two days prior to the hearing date ie., 25.09.2024. He was expected to attend the Advisory board on 25.09.2024 at Chennai, without affording reasonable time. The Courts have repeatedly held that the authorities should give at least 10 days time for the detenu to prepare his defence and representation before the advisory board. In this case, there is a gross violation of not offering adequate time to make effective representation,

6.The detaining authority to arrive at satisfaction had cited a case for likelihood of getting bail. The said case is not similar to the ground case in this matter, hence, the order of detention suffers non-application of mind. In fact, the bail application filed by the detenu was dismissed and no other bail application was pending as on the date of detention order.



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7.A detailed counter been filed by the State, in which, it is stated that

the detenu was served with the detention order as well as the documents in the prison within the time prescribed and he has duly acknowledged the receipt of it. He is a MBA graduate living in New Delhi for years together. Hence, he was given relevant and necessary documents duly translated in English and Hindi. He, having understood the contents, made detailed representations to the detaining authority, Advisory Board and the Government. Those representations were duly considered at the appropriate time. Hence, no prejudice caused to the detenu by not furnishing the documents copy in Panjabi language.

8.His representation to the detaining authority was sent on 11th day of the detention. By the time, his representation reached the detaining authority, the Government has approved the detention order, thus the detaining authority became a *functus officio* to deal with the representation. However, separate representation with few more added grounds sent on behalf of the detenu also reached the Government and the same was considered and rejected by the first respondent, vide order dated 07.10.224.



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9.For the contention that notice to appear before the Advisory Board

was issued only two days prior to the date of hearing, depriving fair opportunity to make effective representation before the Board.

10.The learned Additional Public Prosecutor submitted that, whether the time given to give representation was adequate or farce can be seen from the effectiveness of the representation. In the instant case, notice for hearing on 25.09.2024 was served on the petitioner on 23.05.2024. The petitioner appeared and gave the written representation contains wealth of information and reasons why the detention order has to be revoked. The Advisory Board, only after due considering the representation and the gravity of the crime, had arrived at the opinion in favouring detention.

11.Neither omission to give Punjabi translation of the documents nor omission to supply remand reports and remand extension reports in English had no way caused prejudice to the detenu to give effective representation. Therefore, the detention order passed to prevent the detenu from acting in any manner prejudicial to the maintenance of public order or causing disturbance in to the public order.



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12.This Court, on perusal of the records, finds that the son of the petitioner sent representation on behalf of the detenu, dated 02.09.2024 given to the Advisory Board, the representation dated 12.10.2024 given to the Government were duly considered and the confirmation order was passed by the Government on 09.11.2024, wherein the detenu is ordered to be detained preventively for a period of 12 months.

13.The learned Additional Public Prosecutor submitted that there is neither procedural violation nor a constitutional violation in the detention order which has been passed following due process of law. The detenu and the absconding accused, who are the associates of the detenu, are involved in cyber crime, having worst financial ramification on the nation economy. The investigation, in the ground case and the seizure based on the disclosure made by the detenu, had lead to recovery of cash Rs.44,000/-, 5 Mobile phones, 104 Credit and Debit Cards and maintaining 27 Bank Accounts, out of which, 17 are used for committing cyber crime across the country. He is controlling 5 shell companies and they are used for layer the illicit money.

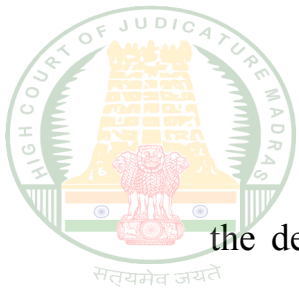


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14.This Court, on due consideration of the submission made by the learned Counsel for the petitioner and the perusal of the records, finds that the detenu been served with copies of the documents duly translated in English a language well known to him. His mother tongue may be Panjabi, but, well conversant with English and Hindi language due to his educational qualification and long domicile in New Delhi. On reading of the representations dated 03.09.2024, 25.09.2024 and 12.10.2024, no one can say that he or his representatives were unable to prepare the representation effectively for want of documents translated in Punjabi language.

15.Regarding the allegation that the third respondent/detaining authority failed to consider the representation dated 03.09.2024, it is noted that, the said representation was sent to the detaining authority on the 11<sup>th</sup> day of the detention order. The power of the detaining authority to reconsider the order of detention is only for a limited period of 12 days. Thereafter, he become *functus officio*. While so, after forwarding the representation on the 11<sup>th</sup> day and expecting to pass order on the 12<sup>th</sup> day without any reasonable justification for the last minute representation, the detenu cannot take undue advantage of his own fault. In such circumstances



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the detention order cannot be interfered, if otherwise does not suffer any vice.

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16. Section 9 of the Act 14/1982 deals with constitution of Advisory Board and Section 10 of the Act mandates the state to refer every case of detention to the Advisory Board within three weeks from the date of detention. Along with the detention order, the representation of the detenu if any, shall also be placed before the Advisory Board along with the report of the Officer, who passed the detention order. The Officer is expected also to forward such other particulars as, in his opinion, have a bearing on the matter.

17. In the instant case, no doubt the representation on behalf of the detenu dated 02.09.2024 reached the Detaining Authority on 03.09.2024 ie., on the 12<sup>th</sup> day, which is the last date of his power to revoke the detention order and by the time, the representation placed before him, the Government has approved the detention, nonetheless the Detaining Authority ought to have forward the said representation dated 03.09.2024 which fall under the category of 'any other particulars, having bearing on the matter' to the



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Government for it to place before the Advisory Board, as per Section 10 r/w

section 3(3) of the Act 14/1982.

18.We find, the representation dated 03.09.2024 given to 2<sup>nd</sup> respondent not forwarded to the first respondent for being placed before the Advisory Board, which took up the detention order of Abhijeet Singh for consideration.

19.In the peculiar circumstances and facts of this case, in our considered opinion, the detention order cannot be interfered for the lapse on the part of the detaining authority, not considering the representation dated 03.09.2024, as a document having bearing on the matter and his failure to forward it to the Government. We find that when the Advisory Board took up the matter for consideration under Section 11 of the Act, had considered the detailed representation given on behalf of the detenu and expressed its opinion in favour of detention. The content of the representation dated 03.09.2024 and the content of the representation dated 25.09.2024 are not different. In fact, all the grounds raised in the earlier representation dated 03.09.2024 is covered and along with new grounds.



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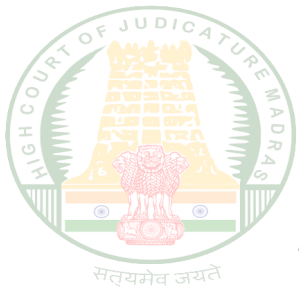
20.It is contented by the Learned Counsel for the Petitioner that the

Advisory Board called the detenu for enquiry within a short time and hence, the representation could not be prepared raising all the grounds. This contention also to be held unsustainable since Section 11 of the Act does not prescribes any time for notice. No doubt, reasonable time must be given to the detenu to make effective representation and the said opportunity to be heard cannot be a farce or empty formality. However in this case there is no material explicitly or implicitly to infer that the detenu was deprived of his right to make effective representation.

Section 11 of the Act reads as under:-

*“11.Procedure of Advisory Boards.- (1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the state Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government, within seven weeks from the date of detention of the person concerned.*

*(2) The report of the Advisory Board shall specify in a*



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*separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.*

*(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.*

*(4) The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.*

*(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with reference to Advisory Board.”*

21.As per this Section, in any particular case, if any person concerned desire to be heard, the Advisory Board can give him the opportunity of hearing, if it is necessary. From the records, we find no such request made on behalf of the detenu for further opportunity of hearing on the ground he had no sufficient time to prepare the representation. The liberty of a person cannot be deprived without due process of law. However, when the maintenance of public peace is at risk in view of the action of a person



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which is prejudicial to the public peace, to prevent danger to public peace, such person can be detained preventively which order subject to the conditions and three tier scrutiny.

22.In the instant case, for the reasons stated, we find the lapse mentioned does not impeach the detention order since the grounds raised in the first representation is repeated in the subsequent representations and those subsequent representations been duly considered by the respective authorities. Hence, no prejudice caused to the detenu due to the lapse. Hence, the order of detention does not suffer any illegality or infirmity.

23.In the result, the order of detention is upheld. The Habeas Corpus Petition stands dismissed.

**[G.J., J.] & [R.P., J.]**

**28.03.2025**

NCC :Yes/No  
Index:Yes/No  
Internet:Yes/No  
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To

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



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**DR.G.JAYACHANDRAN, J.**

**and**

**R.POORNIMA, J.**

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