



H.C.P.(MD)No.1463 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA

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Kavitha

... Petitioner / Mother of Detenu

Vs.

- 1.The State rep. by
Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Collector cum District Magistrate,
Office of the District Collector cum District Magistrate,
Madurai.
- 3.The Superintendent,
Central Prison, Madurai.
- 4.The Inspector of Police,
Samayanallur Police Station,
Madurai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Habeas Corpus, calling for the records



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relating to the detention order passed by the second respondent in Detention Order No.B.C.D.F.G.I.S.S.S.V.No.22/2024, dated 23.07.2024 and to quash the same and direct the respondents to produce the body or person of the detainee, Bharathi @ Dairymilk Bharathi Son of Barathan aged about 24 years, before this Court and set him at liberty, now detained at Central Prison, Madurai.

For Petitioner : Mr.M.Karunanithi

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

ORDER

(Order of the court was delivered by G.R.Swaminathan, J.)

Heard both sides.

2.The petitioner's son was detained as “Goonda” vide order dated 23.07.2024 by the second respondent. The occurrence had taken place on 04.06.2024. The detainee was arrested on 07.06.2024. The detention order was passed on 23.07.2024. There is a gap of more than 48 days between the date of occurrence and the date of passing of the detention order.



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3. The learned counsel appearing for the petitioner drew out attention to the decision reported in (1989) 4 SCC 741 (*T.A.Abdul Rahan Vs. State of Kerala*). Paragraph Nos.10 & 11 of the said decision read as follows:-

“10. The conspectus of the above decisions can be summarised thus: The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention. However, when there is undue and long delay between the prejudicial activities and the passing of detention order, the Court has to scrutinise whether the detaining authority has satisfactorily examined such a delay and afforded a tenable and reasonable explanation as to why such a delay has occasioned, when called upon to answer and further the Court has to investigate whether the causal connection has been broken in the circumstances of each case.

11. Similarly when there is unsatisfactory and unexplained delay between the date of order of detention and the date of securing the arrest of the detenu, such a delay would throw considerable doubt on the genuineness of the subjective satisfaction of the detaining authority leading to a legitimate inference that the detaining authority was not really and genuinely satisfied as regards the necessity for



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detaining the detenu with a view to preventing him from acting in a prejudicial manner.”

4.The ratio laid down in the above case squarely applies to the case on hand. We are more than satisfied that the proximate and live-link stood snapped in this case. In this view of the matter, the order impugned in this petition is set aside. He shall be set at liberty forthwith unless his detention is otherwise warranted by law. The Habeas Corpus Petition is allowed.

(G.R.S. J.) & (R.P. J.,)
28.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi
Issue order copy on 29.01.2025.

To:-

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-9.
- 2.The District Collector cum District Magistrate,
Office of the District Collector cum District Magistrate,
Madurai.
- 3.The Superintendent,
Central Prison, Madurai.



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4.The Inspector of Police,
Samayanallur Police Station,
Madurai District.

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



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