



H.C.P.(MD)No.1158 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09/12/2025

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

H.C.P.(MD)No.1158 of 2025

Solairaj

... Petitioner/Detenu

-VS-

1.State of Tamilnadu,

Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,

Office of the District Collector and District Magistrate,
Sivagangai District, Sivagangai.

3.The Superintendent of Prison,

Madurai Central Prison,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the respondent No.2 in Cr.M.P.No. 36/S.O/2025 dated 02.04.2025 and quash the same and direct the



H.C.P.(MD)No.1158 of 2025

respondent to produce the body or person of the detenu by name Solairaj, son of Amavasai, aged about 28 years, now detained as “Sexual Offender” at Madurai Central Prison before this Court and set him at liberty forthwith.

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.**)

The petitioner is the detenu viz., Solairaj, son of Amavasai, aged about 28 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.36/S.O/2025, dated 02.04.2025 holding him to be a "Sexual Offender", as contemplated under Section 2(ggg) of 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.



H.C.P.(MD)No.1158 of 2025

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3. The learned counsel appearing for the petitioner raised a grounds that the detenu was arrested on 24.02.2025, but the detention order was passed only on 02.04.2025 and hence, there was a delay of 37 days in passing the detention order. The petitioner was arrested and remanded to judicial custody in pursuant to the registration of the FIR in Cr.No.66 of 2025 for the offences under Section Girl Missing @ 137(2), 351(2) BNS and 5(l), 6 of POCSO Act. This inordinate delay in passing the detention order would vitiate the same. He further submitted that there is no live and proximate link between the date of arrest and the date of the detention order. Hence, on this ground, the present impugned detention order is also liable to be set aside.

4. Learned Additional Public Prosecutor appearing for the respondents strongly opposed the habeas corpus petition by filing his counter. He would submit that the victim girl and the detenu fell in love and eloped to get marry. That apart, there was a delay in collecting the medical reports and other reports. He further submitted that though there was a delay in passing the impugned detention order, on that score alone,



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WEB COPY

it cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and therefore, prays for dismissal of the habeas corpus petition.

5. Though it has been stated by the respondents that collection of details has caused the delay in passing the impugned detention order, a perusal of the grounds of the detention order passed by the detaining authority shows that there is only one adverse case is pending in the very same Police Station. The detenu was arrested in the ground case as early as on 24.02.2025 and the detention order was passed on 02.04.2025. This shows an inordinate delay in passing the detention order, which is also unexplained. The live and proximate link between the arrest of the detenu and the need for passing the order of detention has snapped. Thus, on this sole ground alone, the impugned order of detention is liable to be set aside.

6. In the case of *Sushanta Kumar Banik vs. State of Tripura*, reported in *2022 SCC Online (SC) 1333*, when there was an



H.C.P.(MD)No.1158 of 2025

WEB COPY

inordinate delay from the date of proposal till passing of the detention order and likewise, between the date of actual arrest and the date of detention order, the Honourable Supreme Court has held that the live and proximate link, between the grounds and the purpose of detention, stands snapped throwing a considerable doubt on the genuineness of the requisite satisfaction of the detaining authority in passing the detention order unless such delay is satisfactorily explained and consequently making it invalid. The relevant portion is extracted hereunder:-

"20. It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention order bad and invalid because the "live and proximate link" between the grounds of detention and the



H.C.P.(MD)No.1158 of 2025

purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case."

7. In view of the above, as pointed out by the counsel for the petitioner, the delay has not been satisfactorily explained, thereby vitiating and invalidating the detention order.

8. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.36/S.O./2025, dated 02.04.2025, passed by the second respondent is set aside. The detenu, viz., Solairaj, son of Amavasai, aged about 28 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.]
09/12/2025

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



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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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G.K. ILANTHIRAIYAN,J.
AND
R. POORNIMA,J.

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