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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 1893 of 2025

Kuppusamy
S/o.Marimuthu,
No.222, Mariyamman Koil Street,
Keezhamoongiladi,
Chidambaram Taluk, Cuddalore District.

..Petitioner(s)

Vs

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. District Collector and District Magistrate of
Cuddalore District, Cuddalore.
3. The Superintendent of Police,
Cuddalore District,
Cuddalore.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Chidambaram Taluk Police Station,
Cuddalore District.

..Respondent(s)

Prayer: Habeas Corpus Petition filed under Article 226 of Constitution of India for issuance of s writ of Habeas Corpus or any other writ or order in the nature of writ call for the records in Connection with the order of Detention passed by the second respondent 31.08.2025 in C3/D.O/99/2025 against the petitioner's son Sivanesan, Male aged 19 years S/o. Kuppusamy who is



Confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at Liberty.

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For Petitioner(s): Mr.D.Balaji

For Respondent(s): Mr. R. Muniyapparaj
Additional Public Prosecutor
Assisted By
Mr. M. Sylvester John

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

The detenu has been labelled as Goonda under Section 2(f) of Tamil Nadu Preventive Detention Act, 1982 and his father has approached this Court seeking a quash of detention order dated 31.08.2025.

2.We have heard learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.The case of the petitioner is that there is an unexplained delay between the date of arrest and the date of detention and this point is covered in light of the judgment of the Supreme Court in *Sushanta Kumar Banik Vs. State of Tripura*, (2022 LiveLaw (SC) 813).

4.In light of the aforesaid proposition, learned counsel for petitioner contends that, the detention order is liable to be quashed. He would secondly argue that there is non-application of mind in that reliance on the order passed on 20.10.2023 in CrI.M.P.No.7650 of 2023 is incorrect in light of critical differences in facts.



5.Learned Additional Public Prosecutor for his part would point out that the charges against the detenu are serious and hence the detention order is liable to be sustained.

6.Having heard both learned counsel, we find that reliance on the judgment in the case of *Banik* (supra) is well placed. The relevant paragraph of the aforesaid judgment in *Banik*'s case is as follows:

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 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.The arrest in this case was on 20.07.2025 whereas the detention order has been passed more than 40 days thereafter, on 31.08.2025. In the case of *Banik*, the Supreme Court has settled the position that the purpose of arrest should stand vindicated by passing of the detention order, and that there should be a live and proximate link between the purpose for the arrest and detention. Any unexplained elapse of time between the two would snap the link and hence make the detention illegal.



8.The present case is one where the gap of more than 40 days is unexplained. The order does not contain any justification in this regard and hence the link between the two stands snapped.

9.Even as far as reliance on order dated 20.10.2023 is concerned, we find that the detenu has one adverse case whereas the petitioner in Crl.M.P.No.7650 of 2023 had no adverse cases. Hence, the subjective satisfaction of the detaining authority based on the aforesaid case is vitiated by non-application of mind.

10.In light of the above discussion, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent in C3/D.O./99/2025, dated 31.08.2025 is set aside.

11.The detenu, viz., Sivanesan, S/o. Kuppusamy, aged 19 years, now confined in Central Prison, Cuddalore, is directed to be set at liberty forthwith, unless his presence is required in connection with any other case.

(A.S.M.,J.) (S.M.,J.)
23-03-2026

vs

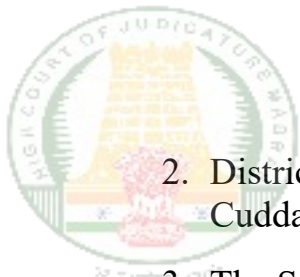
Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

1. The Secretary to the Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009



2. District Collector and District Magistrate of
Cuddalore District, Cuddalore.
3. The Superintendent of Police,
Cuddalore District,
Cuddalore.
4. The Superintendent of Prison,
Central Prison, Cuddalore.
5. The Inspector of Police,
Chidambaram Taluk Police Station,
Cuddalore District.
6. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.
7. The Public Prosecutor,
High Court, Madras.



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DR.ANITA SUMANTH J.

AND

SUNDER MOHAN J.

VS

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