



H.C.P.(MD)No.1210 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.02.2026

CORAM:

**THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

H.C.P.(MD)No.1210 of 2025

R.Sivakumar

... Petitioner

-VS-

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

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

3.The Superintendent of Prison,
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



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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.

3. Though several grounds have been raised in the habeas corpus petition, learned counsel appearing for the petitioner would mainly focus his arguments on the ground that there is an inordinate delay between the arrest of the detenu and passing the impugned detention order. In this case, the detenu was arrested on 04.08.2025, in pursuant to the registration of FIR in Crime No.39 of 2025 for the offence under the provisions of the 64(2)(m), 127(2), 318(2), 329(4) and 64(2)(k) of the BNS. However, the impugned detention order came to be passed only on 10.09.2025, i.e., after a lapse of one month. This inordinate delay in



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passing the detention order would vitiate the same. He also raised the ground that the detenu has not filed any bail application and the detaining authority failed to consider that no documents were produced by the sponsoring authority to show that steps are being taken by the detenu or by his relatives for filing bail application and there is imminent possibility of coming out on bail. The detention order is based on non-existent or imaginary apprehension of bail and there is no subjective satisfaction arrived at by the detaining authority regarding the imminent or real possibility of the release of the detenu on bail. He further submits that the detenu was not served with Tamil version of bail order, which is annexed in the Volume II Booklet. 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



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the respondents strongly opposed the habeas corpus petition by filing his counter. He would submit that though there was a delay in passing the impugned detention order, on that score alone, 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. The detenu was arrested in the ground case as early as on 04.08.2025 and the detention order was passed on 10.09.2025. 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



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an 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



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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. 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 No.42/2025 dated 10.09.2025, passed by the second respondent is set aside. The detenu, viz., Balasubramani @ Karadi Thatha, Son of Ramasamy aged about 53 years is directed to be released forthwith unless his detention is required in connection with any other case. It is made clear that the trial Court is directed to dispose the bail application, if any



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filed by the detinue, on its own merits and in accordance with law, without influencing any of the observation made by this Court.

[G.K.I., J.] [R.V., J.]
09.02.2026

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

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State of Tamil Nadu,
Home, Prohibition and Excise Department,
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- 2.The District Collector and District Magistrate
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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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