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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-10-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE DR.JUSTICE P.MURUGAN

HCP(MD) No. 1359 of 2026
CNR:{HCMD011529502026}

Innisai W/o.Sugumaran,
D No.29, Victoria Avenue,
Victoria Nagar, Nanjikotai Road,
Thanjavur.

..Petitioner(s)

Vs.

1. The State of Tamilnadu
   Rep. by the Principal Secretary to
   Government, Home Department, Fort St
   George, Chennai.

2. The State of Tamil Nadu
   Rep. by the Director General of Police,
   Dr.Radhakrishnan Salai,
   Mylapore, Chennai 600 004.

3. The State of Tamilnadu,
   Rep. by the Inspector of Police,
   Central Zone, TVS Toll Gate Road,
   Kallukuzhi, Trichy 620020.

4. The State of Tamilnadu
   Rep. by the Superintendent of Police,
   CBCID, Regional Branch, Chennai.

5. The State of Tamil Nadu
   Rep. by the Deputy Superintendent of Police,
   CBCID Police Station, Thanjavur District.
   (Re-numbered Crime No.2/2026.)

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6. The State of Tamilnadu
Rep. by the Inspector of Police,
TMCH Police Station, Thanjavur District.
(Crime No.417 of 2026)

..Respondent(s)

Prayer : Habeas Corpus petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the person or body of the detenue, namely Sugumaran, aged about 46 years S/o.Govindarajan, before this Court and set him at liberty forthwith by declaring his arrest and detention to be illegal, unconstitutional and without jurisdiction.

For Petitioner(s): Mr.Sricharan Rangarajan,
Senior Counsel,
for Mr.I.Irulappan
Mr.Prabhakaran

For Respondent(s): Mr.C.Christopher,
Additional Public Prosecutor

Mr.K.Sivabalan,
for Intervenor.

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Additional Public Prosecutor appearing for the respondents and the learned counsel appearing for the intervenor.

2. The writ petitioner is the wife of one Sugumaran who is holding the post of Inspector of Police, District Crime Branch, Thanjavur. He registered Crime No.471 of 2026 on 24.07.2026 on the basis of the complaint lodged by

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one Thirumaran. It appears that the said complaint itself is a fall out of a partnership dispute. Saravanan and Jeyasri Ramasamy, partners of a hospital known as “A to Z Speciality Hospital, Thanjavur” were at loggerheads. The case of Saravanan is that Jeyasri Ramasamy set up Thirumaran to foist a false case against him under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He also alleged that the case was not being properly investigated. The Director General of Police, thereupon, issued instructions on 15.08.2026 to transfer the case to CB-CID, Thanjavur which re-registered the case as Crime No.0002 of 2026 on 10.09.2026.

3. In the meanwhile, the parties, namely Jeyasri and Saravanan buried the hatchet. An unregistered Memorandum of Understanding was entered into on 21.08.2026. This was followed by a registered sale agreement dated 27.08.2026 (Document No.5552 of 2026). As per the agreement, Saravanan was to pay a sum of Rs.24 Crores to Jeyasri towards buy-out of her partnership share. A part of this amount was also paid by Saravanan.

4. However, following the re-registration of the case by CB-CID, Sarvanan took the line that he was coerced into a settlement and forced to cough up the amount of Rs.5 Crores and agree to pay the remaining amount of Rs.19 Crores. Taking note of this statement, an alteration report was filed by the DSP, CB-CID, Thanjavur. Sugumaran, Inspector of Police, who originally investigated Thirumaran’s complaint was arrested on 09.10.2026.

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Sugumaran was remanded to custody. His application for bail was also dismissed by the learned Judicial Magistrate, Thiruvaiyaru on 16.10.2026.

5. Instead of filing bail petition before the Sessions Court or this Court, this HCP has been straight away moved. It is another matter that even if a bail petition had been filed before this Court, it would have come up only before one of us (PMNJ) who is holding the bail roster.

6. The first question that calls for consideration is whether this Habeas Corpus Petition is maintainable. We had framed this question only because the counsel for the intervenor questioned the maintainability of this petition. This issue is no longer res integra. We need to refer only to two decisions of the Hon'ble Supreme Court. In ***Gautam Navlakha Vs. National Investigation (2022) 13 SCC 542,*** it was held as follows :

> "80. … If the remand is absolutely illegal or the remand is afflicted with the vice of lack of jurisdiction, a habeas corpus petition would indeed lie. Equally, if an order of remand is passed in an absolutely mechanical manner, the person affected can seek the remedy of habeas corpus…."

In ***V.Senthil Balaji*** *vs.* ***State rep. by Deputy Director and Others (2024) 3 SCC 51,*** it was held that if the detention can be said to be illegal for not following the statutory mandate, a Writ of Habeas Corpus will lie.

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7. The petitioner has thus crossed the threshold of maintainability. Now, it has to be shown that the petitioner's husband's arrest and remand are vitiated by illegality.

8. The detenu was served with notice under Section 35 of the BNSS, 2023 on 09.10.2026. In response thereto, on the very same day, Sugumaran appeared before the CB-CID. After the questioning was over, he was arrested at 05.00 P.M. As rightly contended by Shri Sricharan Rangarajan, the learned Senior Counsel, when a person has complied with the notice issued under Section 35 of BNSS, the noticee cannot be arrested unless the investigating officer records his reasons as to why the arrest is necessary. Section 35(5) of BNSS, 2023 mandates that where the noticee complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested. The expression "shall not be arrested" is peremptory and cannot be ignored. The Hon'ble Supreme Court in the decision reported in (***2026) 7 SCC 311 (Satender Kumar Antil vs. Central Bureau of Investigation and Another***) had held as follows:

> "24. Section 35(5) of the BNSS, 2023 facilitates the liberty of a person by imposing an implied prohibition of arrest when a person complies with a notice issued under Section 35(3) of the BNSS, 2023. This provision reiterates the fact that any subsequent arrest, being an exception, is warranted only when a police officer forms an opinion for such an

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arrest, which he is duty bound to record, in writing, by furnishing adequate reasons.“

9. It is relevant to note that Sugumaran stands accused of the offences under Sections 61, 308(2) and 198 BNS, 2023. Section 61 defines “criminal conspiracy”. Section 198 provides for simple imprisonment for a term which may extend to one year for public servant disobeying law with intent to cause injury to any person. Section 308(2) provides for imprisonment for a term which may extend to seven years for the offence of extortion. Thus, the case on hand clearly attracts Section 35(1)(b) of BNSS, 2023. It reads as follows :

“35.When police may arrest without warrant.

(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person-

(a) …

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary-(a) to prevent such person from committing any further offence; or(b) for proper investigation of the offence; or

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(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,and the police officer shall record while making such arrest, his reasons in writing:"

Section 35(3) of the BNSS, 2023 is as follows :

"35.(3)The police officer shall, in all cases where the arrest of a person is not required under sub-section (1) issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice."

The fact that the CB-CID did not arrest Sugumaran in the first instance but chose to issue notice under Section 35(3) clearly brings the case on hand under Section 35(5) of BNSS, 2023. At this stage also, the condition precedent for arrest as laid down in Section 35(1) (corresponding to Section 41 of Cr.Pc) has to be complied with and shall be subject to the same scrutiny by the Magistrate (***Arnesh Kumar v. State of Bihar (2014) 8 SCC 273***).

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10. We wanted the respondents to satisfy us that proper reasons were recorded for justifying the arrest of Sugumaran when he had duly complied with the notice issued under Section 35(3) of BNSS, 2023. We place on record that no material was placed before us to show that the requirement set out in Section 35(5) was complied with. This alone is more than sufficient to declare the arrest and remand of Sugumaran as illegal.

11. But we do not stop with this. It has been pleaded in the affidavit filed in support of this writ petition that the grounds of arrest were not served on the detenu. The learned Senior Counsel pointed out that when this submission was urged before the learned Trial Magistrate, it was brushed aside in the following terms :

> "3.1.This court carefully considered the rival contentions raised and perused all the records. The contentions regarding non serving of Grounds of arrest is an objection that too be raised at the time of remand. On perusal of remand order, nothing noted that such objection raised. Further, the accused has been remanded and he is in Judicial custody. It is pertinent to note that in the remand order, it is specifically mentioned that "Accused wife who is an advocate is also present". Further, serving the grounds of arrest is for enabling the accused to know the facts for which he was arrested. Here the accused who being the Inspector of Police and his wife, who being an advocate can have an opportunity to get the knowledge of the grounds of the arrest from the officials. Hence arguments stating Grounds of arrest not served could not be countenanced. "

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We express our shock and surprise. The prosecution did not claim that the grounds of arrest had been served. No such finding was recorded by the trial magistrate. On the other hand, according to the trial magistrate, the fact that the arrestee is a police officer and that his spouse is a lawyer are circumstances that justify dispensing with the constitutional requirement. We remind the officer that Article 21 and 22 are sacrosanct. The interpretation placed by the Hon'ble Supreme Court on the said two Articles constitutes the law of the land. It must be followed in letter and spirit. Certain fundamental rights are non-negotiable. Even the doctrine of waiver would not apply. Even recently, the Hon'ble Supreme Court in ***Mihir Rajesh Shah v. State of Maharashtra and Anr*** **(2026) 1 SCC 500,** categorically posited that the mandate contained in Article 22(1) of the Constitution is unambiguous and clear and that therefore, the arrested person must be informed of the grounds of arrest as soon as they can be.

12. The Hon'ble Supreme Court in ***Vihaan Kumar Vs. State of Haryana*** **(2025) 5 SCC 799** held that if the grounds of arrest have not been served to the arrestee, then the remand cannot be made and if it is made in breach of the constitutional mandate under Article 22, all subsequent proceedings also become illegal.

13. The learned Additional Public Prosecutor submitted that the grounds of arrest were in fact served on the detenu. But this appears to be a mere ipse

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dixit of the law officer. This writ petition was filed on Wednesday. It was taken up only today. Nothing stopped the respondents from filing a typed set containing proof of such service. In fact, no such material must be available. If it had been available, it would have furnished a complete answer to the submission made on behalf of the detenu before the magistrate court. The learned Magistrate would have definitely had the entire papers before her. The bail order is quite detailed. There is no finding that the grounds of arrest were served on the detenu. On the other hand, the learned Magistrate was at pains to show that non-service of the grounds of arrest did not make a difference considering the fact that the applicant is a police officer and his spouse is a practising lawyer.

14. Respectfully applying the ratio laid down in ***Vihaan Kumar Vs. State of Haryana*** **(2025) 5 SCC 799** and ***Mihir Rajesh Shah v. State of Maharashtra and Anr*** **(2026) 1 SCC 500,** we hold that the arrest and remand of the petitioner's husband is a rank violation of the constitutional mandate.

15. Two other thoughts trouble our minds. The case of Saravanan/intervenor was that Thirumaran's FIR registered under SC ST Act was not being impartially investigated. He alleged bias. The Director General of Police acting on the said allegation, directed the DSP, CB-CID, Thanjavur to take over the investigation in Crime No.471 of 2026. This transfer order was made on 15.08.2026. In our country, things move rather slowly. By the

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time CB-CID re-registered the case as Crime No.2 of 2026, much water had flown under the bridge. Saravanan settled the matter with his partner-turned foe. Two agreements were entered into. The second one was registered. He made a part payment of Rs.5.00 crores. After CB-CID entered the scene, Saravanan claimed that he was arm-twisted into settling the matter. According to him, he was threatened with arrest. He also alleged that Rs.5.00 crores was meant for Sugumaran and his higher-ups. Based on this U-turn, the CB-CID filed an alteration report on 09.10.2026. Interestingly, all the offences originally registered against Saravanan and two others were dropped. The DSP, CB-CID appears to have forgotten that without putting the defacto complainant on notice, the offences registered under the SC/ST Act could not have been deleted. Section 15A of the SC/ST Act no doubt talks about the association of the victim at stages such as bail, discharge, release, parole, conviction or sentence of an accused. But Section 15A which is a beneficial provision has to be construed expansively and liberally. No doubt, a penal statute ought to be construed only strictly. But this principle will not apply to a benevolent provision or a provision that favours the victim in a penal statute. Section 15A merely provides for hearing the victim. This is not a provision that even remotely prejudices the rights of the accused. Without putting Thirumaran on notice, the DSP, CB-CID could not have on her own deleted the offences originally registered.

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16. CB-CID registers FIR based on directions of the head of the department or the court. It does not receive complaints straightaway. That is why, even in the month of September, 2026, the FIR number is only 2/26. In the case on hand, it was the DGP who vide proceedings dated 15.08.2026, directed CB-CID to investigate the complaint of Thirumaran. The remit of CB-CID was clear and definite. It could have filed final report holding that Thirumaran's complaint was false. Instead, it exonerated the persons accused in Thirumaran's complaint and turned the spotlight exclusively on the original investigating officer. We have our own serious doubts as to whether an alteration report can switch horses mid-stream. An alteration report is filed when graver offences appear to have been committed. The offence for which alteration report is filed must have a direct link with the offence originally registered. For instance, an FIR may be registered for the offence of attempt to murder. The injured might die. Then, alteration report is filed for including the offence of murder. An alteration report is not normally filed for an entirely different cause of action. The allegation that Sugumaran extorted money from Saravanan is certainly a different cause of action. Saravanan, the erstwhile second accused, became the source of an entirely different accusation against the detenu, concerning different transaction, on different dates, with a different alleged victim. When such role reversals take place, the prosecution would do well to start on a clean slate.

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17. According to Saravanan, the sum of Rs.5.00 crores has been pocketed by Sugumaran and others. But the petitioner makes a bold claim before this Court that Jeyasri, the estranged partner of Saravanan would testify before any court or authority that it is she who is the recipient of Rs.5.00 crores of rupees which sum has been paid in cash/cheques by Saravanan.

18. But we are not concerned with the merits of the matter. We, therefore, will not be justified in holding that the FIR registered by CB-CID has to be quashed. That is an independent battle which Sugumaran may have to wage. Whether the fundamental rights of Sugumaran were breached in the matter of his arrest and remand is the only point for consideration before us. No doubt, Sugumaran is a police officer accused of having played Kattapanchayat. But even such a person deserves due process. When we apply Articles 21 and 22 of the Constitution of India to grant relief to terrorists, it would be inequitable to deny the protection of Part III of the Constitution to police officers who are on the wrong side of the law. To us, the character of the person and the nature of allegations levelled against him are irrelevant. We will only see if the litigant has made out a case for our interference.

19. As already mentioned, the writ petition was filed on Wednesday. It is being taken up only today ie., Friday. The petitioner's husband is in custody since 09.10.2026. When it is argued before us that liberty is involved and the prayer has been made in a Habeas Corpus Petition, we cannot brook any

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delay. Recently, when two innocent villagers were incarcerated and their bail petition was wrongly rejected, the Division Bench of this Court to which one of us was a party (GRSJ) in WP(MD)No.29140 of 2026 exercised the supervisory jurisdiction under Article 227 of the Constitution of India and directed the Sessions Judge to hold a special sitting on a Saturday and take up the bail petition. It was heartening to note that the poor villagers were granted bail. ***Arnab Goswami v. State of Maharashtra (2021) 2 SCC 427*** was cited. The judgment of this Court began with the following quotation :

"*Deprivation of liberty even for a single day is one too many*".

Shri Sharath Chandran, editor of MLJ and a practising lawyer and an academic, felt that the remarks of Justice K.Subba Rao when His Lordship was a Judge of the Madras High Court are even more apposite. ***A.K.Gopalan v. the District Magistrate and ors (AIR 1949 Mad 596***) in ringing terms declares thus :

> "It is the sacred duty of this Court to see that no citizen of this province, whether he is rich or poor, whether he belongs to this or that political persuasion, is illegally detained for one minute."

Since even a minute's illegal detention cannot be tolerated, we have chosen to dispose of the matter today itself. No exception can be taken to expeditious or even immediate disposal of a Habeas Corpus Petition. We remind ourselves of the following famous words of Lord Denning :

> "Whenever one of the Judges takes seat, there is one application which by long tradition has priority over all others. The counsel has but to say, 'My Lord, I have an application which concerns

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the liberty of the subject', and forthwith the Judge will put all other matters aside and hear it."

20. In the instant case, the CB-CID has not merely supplanted the original First Information Report, but has also discarded the original informant's allegations completely by letting go the primary accused and substituting them with a new accused on an entirely different factual matrix. But the CB-CID did not follow due process while dealing with Sugumaran. We have already pointed out the grave illegalities vitiating his arrest and remand.

21. We, therefore, declare that the petitioner's husband's arrest, detention and subsequent remand are illegal. He shall be released forthwith. This order shall be instantly complied with by the authorities who are in-charge of the detenu's custody. The concerned prison authority as well as the CB-CID are directed to act on the web-copy and they shall not insist on production of certified copy of this order. We are not granting bail. On the other hand, we are directing his unconditional release. We clarify once again that we have not gone into the merits of the allegation made by the intervenor. This Habeas Corpus petition is allowed.

(G.R.S.,J.) & (P.M.N.,J.)

23-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SKM

Note : Issue order copy immediately.

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To

1. The Principal Secretary to Government,
   Home Department, Fort St George, Chennai.

2. The Director General of Police,
   Dr Radhakrishnan Salai,
   Mylapore, Chennai 600004.

3. The Inspector of Police, Central Zone,
   TVS Toll Gate Road, Kallukuzhi,
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6. The Inspector of Police,
   TMCH Police Station, Thanjavur District.
   Crime No.417 of 2026.

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

Copy to :

The Superintendent,
Sub Jail, Thanjavur.

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AND
DR.P.MURUGAN, J.

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