

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 25-06-2026**

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**THE HON'BLE DR.JUSTICE ANITA SUMANTH**

**AND**

**THE HON'BLE MR.JUSTICE SUNDER MOHAN**

**HCP Nos. 98 & 104 of 2026**

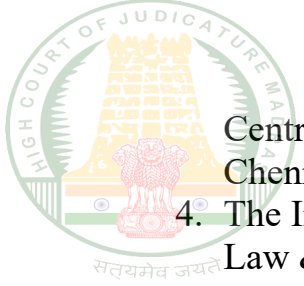
P.Kala  
W/o. Pushparaj,  
709, Dr.Ambedkar Nagar,  
Adambakkam, Chennai.  
Tamil Nadu - 600 088. ... Petitioner(s) in  
HCP.No.98 of 2026

Krishnaveni  
C/o. Nagarajan,  
573, Ambedkar Nagar,  
4<sup>th</sup> Main Raod, Velachery,  
Chennai.- 600 042.

..Petitioner(s) in  
HCP.No.104 of 2026

Vs

1. The State of Tamilnadu  
Rep. by its Additional Chief Secretary to  
Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.
2. The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police  
(Goondas Section)  
Vepery, Chennai - 600 007.
3. The Superintendent,



Central Prison, Puzhal,  
Chennai - 66.

4. The Inspector of Police,  
Law & Order,  
S-8, Adambakkam Police Station,  
Chennai - 600 088.

..Respondent(s) in both  
HCPs

Prayer in HCP.No.98 of 2026: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus or any other appropriate order or direction in the nature of writ, calling for the entire records relating to the Impugned Order of Detention passed by the second respondent in Memo No.783/ BBCDEFGISSSV/2025 dated 09.10.2025 and set aside the same and consequently direct the respondents to produce the detenue Ajithkumar, son of Pushparaj, aged about 29 years, petitioner's son now confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

Prayer in HCP.No.104 of 2026: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus or any other appropriate order or direction in the nature of writ, calling for the entire records relating to the Impugned Order of Detention passed by the second respondent in Memo No. 786/BBCDEFGISSSV/2025 dated 09.10.2025 and set aside the same and consequently direct the respondents to produce the detenu Surya @ Kuruvi Surya, S/o. Nagaraj, aged about 28 years, petitioner's son now confined at Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

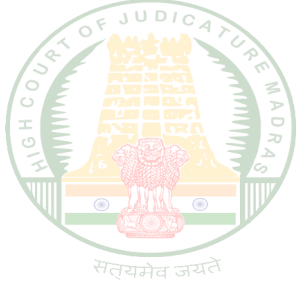
### **In both HCPs**

For Petitioner(s):

Mr.T.Muthukrishnan

For Respondent(s):

Mr.C.R. Malarvannan,  
Counsel for Government of Tamil Nadu  
(Criminal Side)

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

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In both HCPs, the mother of detenus, viz., Ajithkumar S/o. Pushparaj (HCP No.98 of 2026) and Surya @ Kuruvi Surya, S/o Nagaraj (HCP No.104 of 2026), who were detained as a 'Goonda' under Section 2(f) of the Tamil Nadu Act 14 of 1982 (in short 'Act') have approached this Court challenging the orders of detention, both dated 09.10.2025.

2. We have heard Mr.T.Muthukrishnan, learned counsel for petitioner and Mr.C.R.Malarvannan, learned counsel for Government of Tamil Nadu (Criminal Side), for the respondents.

3. The detenus are co-accused in Crime Nos.512 of 2025 and 522 of 2025. It is seen from the impugned order and the grounds of detention that the detenus were arrested on 07.09.2025 and they were detained on 09.10.2025. We do not find any satisfactory explanation for the delay in passing the orders of detention either in the grounds of detention or in the counter affidavits filed by the 2<sup>nd</sup> respondent. Hence, we are of the view that the live and proximate link between grounds of detention and the purpose of detention stands snapped.

4. In *Sushanta Kumar Banik Vs. State of Tripura* (2022 LiveLaw (SC) 813), a similar issue arose, and the relevant discussion reads as follows:

*“21. 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*



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*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.”*

5. Drawing inspiration from the judgment in *Sushanta Kumar Banik's* case, a co-ordinate Bench of this Court in the case of *Gomathi Vs. Principal Secretary to Government and Others* (2023 SCC OnLine Mad 6332), had held that when there is an inordinate delay between the date of arrest/date of proposal and the order of detention, the live and proximate link between them would also stand snapped and thereby, had quashed the detention order on this ground.

6. In yet another case i.e., in *Nagaraj Vs. State of Tamil Nadu*, ((2018) 3 MWN (Cri) 428), this Court had held that the delay of 36 days in passing the detention order after the arrest of the detenu would snap the live and proximate link between the grounds and purpose of detention. In the present cases, the delay is more than a month, 33 days to be exact, and unexplained and for this reason, vitiates the orders, rendering them liable to be quashed.

7. In light of the aforesaid discussion, we are of the considered view that there is neither a proximate link between the arrest (07.09.2025) and the orders of detention (09.10.2025), and nor is there any credible material brought on record by the detaining authority to substantiate his subjective satisfaction.



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8. That apart, another ground that vitiates the orders of detention is that the detenus may be enlarged on bail. The detaining authority referred to the statements allegedly recorded from the relatives of the detenus under Section 180(3) of the BNSS to the effect that they have not filed bail petition at that time, but in due course of time, they will make an attempt to file bail applications before the appropriate Court. A copy of the statement has been placed at page No.62 of the booklets.

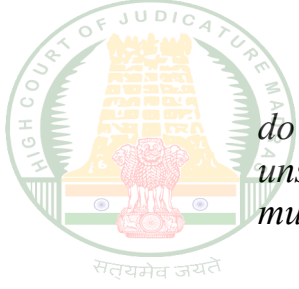
9. However, we find that the statement is not signed and hence there is nothing to support the satisfaction of the detaining authority that there are efforts on-going to secure bail for the detenu. If at all the authority wishes to rely on the document, it would necessarily have to be signed by the relative to support the apprehension of the authority.

10. We have, in fact, taken a similar view in our order dated 03.03.2026 in HCP Nos. 2129, 2179 and 2340 of 2025 and the relevant paragraphs are extracted below:

*8. On the first question whether bail applications have been filed at all, we have perused the booklets that contain the avowed statements of M.Pitchaiammal at page 147, Nagomi at page 146 and Mohan at page 148 of the booklet.*

*9. According to the petitioners, there are three flaws in the statements recorded. Firstly, they are unsigned, secondly, they are undated and thirdly, the crime number mentioned therein is incorrect, insofar as the crime number mentioned is 332 of 2025, whereas the crime number in the ground case in all three cases is 378 of 2025.*

*10. Having considered the rival contentions, we agree with the petitioners that the statements relied upon by the respondents*



*do not support their case. Firstly, the statements are indeed unsigned and undated. There is hence absolutely no clarity, much less certainty, as to when they were recorded.*

*11. The description of the statements on the top of the page refers to Section 180(3) of the BNSS which corresponds to Section 161 of the Criminal Procedure Code, 1973. A statement under Section 161 is recorded in the course of investigation and the provisions of Section 162 stipulate that such a statement is not expected to be signed. That may be so. However, since in the present cases, the respondents seek to draw the benefit of those statements, it is necessary for the statements to have been signed in order to support the conclusion that Pitchaiammal, Nagomi, and Mohan are taking steps to obtain bail in the cases of the respective detenus. In the absence of a signature, these statements cannot be relied upon for this purpose.*

*12. ....*

*13. .... We hence eschew the statements in toto for the purposes of the present cases. As a sequitur, subjective satisfaction of the Sponsoring Authority that M.Pitchaiammal, Nagomi and Mohan are taking steps to obtain bail, based on the above statements stands vitiated and the argument of the petitioners on this count is accepted.*

11. Incidentally, our attention is drawn to an order passed in HCP (MD) N0.369 of 2026 dated 19.06.2026 passed by the co-ordinate Bench sitting at Madurai, wherein an order passed by this Bench in HCP Nos. 2129, 2179 and 2340 of 2025 dated 03.03.2026 was relied upon by that petitioner. The Bench has opined that the order is per incuriam and has rendered the following observations:

*11. We have carefully gone through the order passed in HCP.Nos. 2129, 2179 and 2340 of 2025 dated 03.03.2026. The Division Bench of this Court, after taking into consideration the bar contained under Section 162 of Cr.P.C., which provides that such statement recorded under Section 161 of Cr.P.C., need not be signed, proceeded to hold that when such statements are relied upon while*



*passing the detention order, it has to be necessarily signed failing which such statement cannot be relied upon by the Detaining Authority.*

*12. In our considered view, the above finding of the Division Bench is not in line with Sections 161 and 162 of Cr.P.C., / 180 and 181 of BNSS. The provisions of Cr.P.C., / BNSS makes it clear that the Police Officer may reduce into writing any statement made to him in the course of an investigation and such statement recorded by the Investigation Officer need not be signed by the person, who makes it. Thus, there is a bar provided under Section 162 of Cr.P.C., / 181 of BNSS. An exception cannot be carved out while dealing with a challenge to the detention order. The finding of the Division Bench at Paragraph No.11 of the order runs contrary to the statutory provision and therefore, it has to be necessarily held to be per incuriam.*

12. We believe that our order has been misconstrued and has not been understood in proper perspective. It was never the intention of the Bench to conclude that a statement under Section 180(3) of BNSS or Section 161 of the Cr.P.C., 1973 should be signed by the deponent, being conscious of the statutory requirement that obviates a necessity of signature on the statements recorded under the aforesaid provisions.

13. Our intention was to state that if at all those statements were sought to be taken advantage of, to buttress the subjective satisfaction of the sponsoring/detaining authority while passing an order under Act 14 of 1982, then it is necessary that the material relied upon by that authority must be seen to emanate from the deponent himself/herself, to be credible.

14. A statement under Section 180(3) of the BNSS or Section 161 of the Cr.P.C. would thus not come to the aid of the sponsoring/detaining authority, and would not contribute credible material that would support his subjective



satisfaction.

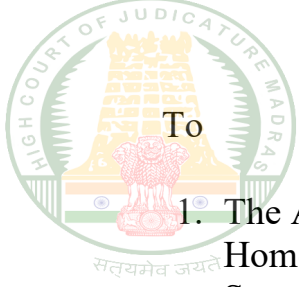
15. In fact, both Sections 180(3) of BNSS and Section 161 of the Cr.P.C. relate to the examination of witnesses in the course of investigation of a case and such statements would hence be of no avail for the purpose of supporting subjective satisfaction in cases of detention. We, hence, reiterate our view in the present matter as well.

16. In light of the aforesaid discussion, these Habeas Corpus Petitions are allowed and the Detention Orders passed by the second respondent in No.783/BBCDEFGISSSV/2025, dated 09.10.2025 (in HCP.No.98 of 2026) and No.786/BBCDEFGISSSV/2025, dated 09.10.2025 (in HCP.No.104 of 2026) are set aside.

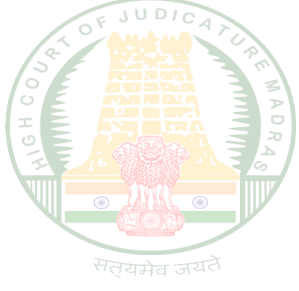
17. The detenu, viz., Ajithkumar, S/o. Pushparaj, aged 29 years (in HCP.No.98 of 2026) and Surya @ Kuruvi Surya S/o Nagaraj, aged 28 years (in HCP.No.104 of 2026), now confined in Central Prison, Puzhal, Chennai, **are** directed to be set at liberty forthwith, unless their presence **are** required in connection with any other case.

**(A.S.M.,J.) (S.M.,J.)**  
**25-06-2026**

Index: Yes/No  
Speaking order  
Neutral Citation: Yes  
SL



1. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.
2. The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police  
(Goondas Section)  
Vepery, Chennai - 600 007.
3. The Superintendent,  
Central Prison, Puzhal,  
Chennai - 66.
4. The Inspector of Police,  
Law and Order,  
S-8, Adambakkam Police Station,  
Chennai - 600 088.
5. The Public Prosecutor,  
High Court of Madras.
6. The Joint Secretary to Government,  
Public (Law and Order),  
Secretariat, Fort.St.George, Chennai -9.



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**DR.ANITA SUMANTH J.  
AND  
SUNDER MOHAN J.**

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