



H.C.P.(MD)No.1344 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 07.01.2026

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R. POORNIMA

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Vijaya Dharshini

... Petitioner/
Wife of the Detenu

-VS-

- 1.State of Tamil Nadu Rep. by its,
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
O/o.the District Collector and District Magistrate,
Karur District,
Karur.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli.

... 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
pertaining to the Detention Order in Cr.M.P.No.06/2025 dated



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21.01.2025, on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body and person of petitioner's husband namely Super Shanmugam @ Shanmugavadivel, aged about 23 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.M.Silambarasan

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 wife of the detenu viz., Super Shanmugam @ Shanmugavadivel, son of Selvaraj, aged about 23 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.06/2025, dated 21.01.2025 holding him to be a "Goonda", as contemplated under Section 2(f) 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



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respondents. We have also perused the records produced by the Detaining Authority.

3. The learned counsel appearing for the petitioner raised the ground that the detenu was arrested and remanded to judicial custody on 20.12.2024 in pursuant to the registration of the FIR in Cr.No.542 of 2024 for the offence punishable under Sections 103, 238 of BNS. However, the detention order was passed only on 21.01.2025 after a period of 32 days. 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 and 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.

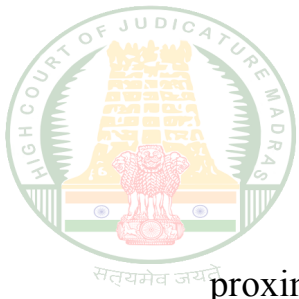


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5. Though it has been stated by the respondents that collection of details has caused the delay in passing the impugned detention order, a perusal of the grounds of the detention order passed by the detaining authority shows that there is no adverse cases and only one ground case is referred. The detenu was arrested in the ground case as early as on 20.12.2024 and the detention order was passed on 21.01.2025. 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 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



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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 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."



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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.06/2025, dated 21.01.2025, passed by the second respondent is set aside. The detenu, viz., Super Shanmugam @ Shanmugavadivel, son of Selvaraj, aged about 23 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.]

07.01.2026

am

NCC :Yes/No

Index: Yes/No

Internet: Yes/No



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 - 2.The District Collector and District Magistrate,
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 - 3.The Superintendent,
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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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