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**(1998) 11 MAD CK 0080**  
**In the Madras High Court**  
**Case No : H. C. P. No. 201 of 1998**

Saravanan

APPELLANT

Vs

State of Tamil Nadu and others

RESPONDENT

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**Date of Decision :** 09-11-1998

**Acts Referred:**

**Citation :** (1999) 1 CTC 618

**Hon'ble Judges :** N.K. Jain, J;M. Karpagavinayagam, J

**Bench :** Division Bench

**Advocate :** Ms. R. Subadra Devi, for the Appellant; Mr. S. Anbalagan, Additional Public Prosecutor, for the Respondent

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## Judgement

Judgement pronounced by N.K. Jain, J.—The petitioner/detenu, has challenged the order of detention passed by the second respondent on

22.12.1997, labelling the petitioner as a bootlegger, with a view to preventing him from indulging in an activity prejudicial to the maintenance of

public order and public health.

2. Though, the petitioner has raised so many grounds in the affidavit filed in support of the petition, learned counsel for the petitioner restricted his

arguments on two grounds viz., (1) that there is abnormal delay in disposing of the representation and (2) that the Tamil version of the grounds of

detention did not mention about the imminent possibility of moving the bail, which would vitiate the order of detention. He relied on the decision

reported in Vinayagam v. The District Magistrate and Collector of N.A. Ambedkar District Vellore, 1995 (I) L.W. (Cri) 149.

3. Counter affidavit has been filed by the respondents. In paragraph 8 of the counter affidavit, it has been stated that the representation of the

detenu which was received on 28.1.1998, came to be rejected on 17.2.1998 without any delay. Regarding the other contention raised by the

learned counsel for the petitioner, learned Additional Public Prosecutor submitted that it has been stated in the grounds of detention that there is

possibility of the detenu coming out on bail, and that the grounds of detention has to be read as a whole. Learned Additional Public Prosecutor

relies on the decision in Veeramani v. State of Tamil Nadu, 1994 S.C.C. (Cri) 482.

4. We have heard the learned counsel appearing on either side and perused the materials on record. As regards the contention of the learned

counsel for the petitioner that there is delay in disposing of the representation of the petitioner, we have gone through the averments made in the

counter affidavit. We are satisfied with the explanation offered and in our view it cannot be said that there is abnormal delay in disposing of the

representation of the petitioner.

5. Regarding the second contention that the Tamil version of the detention order did not mention about the word, "imminent possibility", we have

perused the detention order, both the English version and the Tamil version. On a perusal, it is seen that the Tamil version did not mention about

the word, "imminent possibility". Learned Additional Public Prosecutor submits that while considering Veeramani's case, 1994 S.C.C. (Cri) 482.

Their Lordships distinguished the case in Rivadeneyta Ricardo Agustin v. Government of Delhi, 1994 SCC (Cri) 354 which was relied on by a

Division Bench of this Court, in Vinayagam's case, 1995 (I) L.W. (Cri) 149., and hold that ""detaining authority stating that he was aware that he

(the (detenu) was likely to file a bail ""..."" would not vitiate the detention order. In such circumstances, he submitted that the petitioner cannot take

advantage of the decision of a Division Bench of this Court in Vinayagam's case 1994 S.C.C. (Cri) 482. Admittedly, the detaining authority

concerned, has not passed the impugned order, on the basis of ""likely"", but had used the word, "imminent possibility" and admittedly, in the Tamil

version, it had not been provided, which fact also has not been disputed. Learned Additional Public Prosecutor has not been able to-controvert the

same. In view of this, Veeramani's case, 1994 S.C.C. (Cri) 482.is not helpful to the facts of this case. Vinayagam's case, 1995 (I) L.W. (Cri)

149. squarely applies to the facts of the case on hand. Therefore, on his ground,

the impugned order of detention is not sustainable.

6. In the result, the H.C.P. is allowed, and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith, unless the detention is required in any other case.