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HCP.No.34 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.34 of 2025

Backiyam

Petitioner/Mother of Detenue

Vs

1. State of Tamil Nadu Rep By,
The Secretary to Government,
Home Prohibition And Excise Department,
Fort St George, Chennai 600 009.

2.The Commissioner Of Police,
Salem City, Salem.

3.The Superintendent Of Prison,
Central Prison, Salem.

4.The Inspector Of Police
Karipatty Police Station, Salem

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the 2nd respondent in CMP.No.109/Goonda/Salem City/2024 dated 09.12.2024 against the petitioner's son Boopalan aged 27



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years son of Paramasivam now confined in Central Prison, Salem and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
and
V. LAKSHMINARAYANAN, J.

The petitioner herein, who is the mother of the detenue, Boopalan s/o. Paramasivam, aged about 27 years, now confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the second respondent dated 09.12.2024 issued against her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.



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3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail. It is his submission that the case relied upon by the Detaining Authority is not similar to the present case.

4. On a perusal of the Booklet in Volume-II, this Court finds that the bail order relied upon by the Detaining Authority in CrI.O.P.No.4919 of 2024 dated 11.03.2024, is not similar to the case on hand. In that case, the bail court had come to a *prima facie* conclusion that the overtact attributed to the petitioner therein is that he had instigated the other accused to commit murder, which fact is not in the ground case before the Detaining Authority. Hence, the subjective satisfaction arrived at by the Detaining Authority warrants interference and the detention order is liable to quashed on the ground of non-application of mind.

5. The Hon'ble Supreme Court, in the case of '***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another***' reported in



'2011 [5] SCC 244', has dealt with a situation where the Detention Order is

passed without an application of mind. In case, any of the reasons stated in the order of detention is non-existent or a material information is wrongly assumed, that will vitiate the Detention Order. When the subjective satisfaction was irrational or there was non-application of mind, the Hon'ble Supreme Court held that the order of detention is liable to be quashed. It is relevant to extract paragraphs 10 and 11 of the said judgment of the Hon'ble Supreme Court:-

“10. In our opinion, if details are given by the respondent authority about the alleged bail orders in similar cases mentioning the date of the orders, the bail application number, whether the bail order was passed in respect of the co-accused in the same case, and whether the case of the co-accused was on the same footing as the case of the petitioner, then, of course, it could be argued that there is likelihood of the accused being released on bail, because it is the normal practice of most courts that if a co-accused has been granted bail and his case is on the same footing as that of the petitioner, then the petitioner is ordinarily granted bail. However, the respondent authority should have given details about the alleged bail order in similar cases, which has not been



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done in the present case. A mere ipse dixit statement in the grounds of detention cannot sustain the detention order and has to be ignored.

11. In our opinion, the detention order in question only contains ipse dixit regarding the alleged imminent possibility of the accused coming out on bail and there was no reliable material to this effect. Hence, the detention order in question cannot be sustained.”

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 09.12.2024 in CMP.No.109/Goonda/Salem City/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detainee viz., Boopalan s/o. Paramasivam aged about 27 years, now confined at Central Prison, Salem, is directed to be set at liberty forthwith, unless he is required in connection with any other case.



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[M.S.R., J]

[V.L.N., J]

09.07.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

To

The Secretary to Government,
Home Prohibition And Excise Department,
Fort St George, Chennai 600 009.

2.The Commissioner Of Police,
Salem City, Salem.

3.The Superintendent Of Prison,
Central Prison, Salem.

4.The Inspector Of Police
Karipatty Police Station, Salem

5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai

6.The Public Prosecutor,
High Court, Madras.



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