



H.C.P.No.146 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.146 of 2025

VELU

... Petitioner / father of the detenue

Vs.

1. Government Of Tamilnadu Rep

By Its

Addl. Chief Secretary To Govt.,
Home, Prohibition And Excise
Department, Chennai - 600009.

2.The Commissioner Of Police

Greater Chennai Police,
Chennai - 600 004.

3.The Inspector Of Police

V-5, Thirumangalam Police Station,
Chennai - 600 054.

4.The Superintendent Of Police

Central Prison Puzhal,
Chennai - 600 066.

... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to call for the entire records culminating in the passing of the order of detention the petitioner's Son of the detenue under Act 1982 as GOONDAS vide detention order in No.814/BCDFGISSSV/2024 dated 05.08.2024 on the file of the 2nd respondent herein and quash the same as illegal and consequently direct the respondent herein to produce the body and person of the detenue by name Saravanan, male, Age 25, S/o.Velu, before the this Court and set him at liberty from detention, now confined at Central Prison-II, Puzhal, Chennai.

For Petitioner : Mr.A.Vijayasankar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

M.S.RAMESH, J.

and

N.SENTHILKUMAR.J.

The petitioner herein is the father of the detenue viz., Saravanan, male, Age 25, S/o.Velu, has come forward with this petition challenging the detention order passed by the second respondent dated 05.08.2024 slapped on his son, branding him as "Goonda" contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber



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law offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand 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.

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 offences charged as against the accused in the similar case relied upon by the Detaining Authority are different compared to the case on hand.

4. On a perusal of the Booklet, this Court finds that the offences charged against the accused in CrI.M.P.No.20525 of 2024 are not similar to the case on hand. Considering the nature of the bail order in the similar case relied upon by the Detaining Authority and the case on hand, this Court finds that the subjective satisfaction of the Detaining Authority that the detenu is also likely to be released on bail, suffers from non-



application of mind.

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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



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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 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. Accordingly, the detention order passed by the second respondent in No.814/BCDFGISSSV/2024, dated 05.08.2024, is hereby



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set aside and the Habeas Corpus Petition is allowed. The detenu viz.,

Saravanan, male, Age 25, S/o.Velu, is directed to be set at liberty

forthwith unless he is required in connection with any other case.

[M.S.R., J] [S.M., J]

14.03.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Anu

To

1.The Additional Chief Secretary To
Govt., Home, Prohibition And
Excise Department, Chennai -
600009.

2.The Commissioner Of Police
Greater Chennai Police,
Chennai - 600 004.

3.The Inspector Of Police
V-5, Thirumangalam Police Station,
Chennai - 600 054.

4.The Superintendent Of Police
Central Prison Puzhal,
Chennai - 600 066.

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



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6. The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
N.SENTHILKUMAR.J.

Anu

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