



WEB COPY



HCP.No.243 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM :

**THE HONOURABLE MR. JUSTICE M.S. RAMESH**

**AND**

**THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR**

H.C.P.No.243 of 2025

MONISHA

Petitioner(s) /sister of the detainee

Vs

1. The Additional Chief Secretary To The Government,  
Home, Prohibition And Excise (XVI) Department,  
Secretariat,  
Chennai-600 009.

2.The Commissioner Of Police,  
Greater Chennai

3.The Superintendent Of Prison,  
Central Prison Puzhal,  
Chennai District.

4.The Inspector Of Police, (law And Order)  
R-2, Kodambakkam Police Station,  
Chennai.

Respondent(s)

**PRAYER:** Petition filed under Article 226 of the Constitution of India to  
issue a writ of Habeas Corpus, calling for the entire records connected with



HCP.No.243 of 2025

the detention order in No.1158/BCDFGISSSV/2024 dated 23.11.2024 on the file of the respondent no.2 and quash the same and direct the respondents to produce the petitioner's brother one named Mr.Aasai, S/o.Annadurai, aged about 26 years, now confined at Central Prison, Puzhal before this Court and set him at liberty.

For Petitioner : Mr.P.Muthamizhselvakumar  
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, who is the sister of the detenu, Aasai, S/o.Annadurai, aged about 26 years, has come forward with this petition challenging the detention order passed by the second respondent dated 23.11.2024 slapped on her brother, branding him as "Drug Offender" 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.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the bail order relied upon by the Detaining Authority is not similar to the case on hand, by referring to the fact that bail was granted to the accused therein mainly on the ground that the contraband had not yet produced before the Court. Therefore, the learned counsel submitted 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.

4. On a perusal of the Booklet, this Court finds that, in the similar case relied upon by the Detaining Authority, i.e., CrI.M.P.No.1842 of 2020 dated 15.12.2020, the accused therein was granted bail on the ground that the contraband had not yet been produced before the Court. This apart, the detenu has got three previous cases. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority that the detenu is also likely to be released on bail, by relying upon the aforesaid similar case,



suffers from non-application of mind.

WEB COPY

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*



WEB COPY



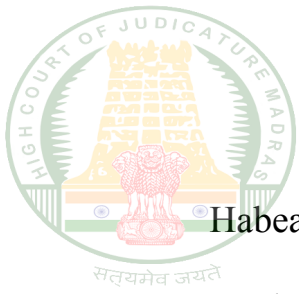
HCP.No.243 of 2025

*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 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 on 23.11.2024 in No.1158/BCDFGISSSV/2024, is hereby set aside and the



HCP.No.243 of 2025

Habeas Corpus Petition is allowed. The detenu viz., Aasai, S/o.Annadurai, aged about 26 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J] [N.S., J]  
05.03.2025

Index: Yes/No  
Speaking/Non-speaking order  
Internet: Yes/No  
Neutral Citation: Yes/No  
*Anu*

To

1. The Additional Chief Secretary To The Government,  
Home, Prohibition And Excise (XVI) Department,  
Secretariat,  
Chennai-600 009.

2.The Commissioner Of Police,  
Greater Chennai

3.The Superintendent Of Prison,  
Central Prison Puzhal,  
Chennai District.

4.The Inspector Of Police, (law And Order)  
R-2, Kodambakkam Police Station,  
Chennai.

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



*HCP.No.243 of 2025*

6. The Public Prosecutor,  
High Court, Madras.

WEB COPY



WEB COPY



*HCP.No.243 of 2025*

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

H.C.P.No.243 of 2025

05.03.2025