



H.C.P.No.367 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.367 of 2025

Saraswathi Murugesan

... Petitioner

Vs.

1.The Additional Chief
Government of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police / Detaining Authority
City Police Office
Huzur Road, Coimbatore - 18

3.The Superintendent
Central Prison
Coimbatore

4.The Inspector of Police
B-2, R.S. Puram Police Station
Coimbatore

...Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the



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records pertaining to the order of detention passed by the second respondent herein and made in C.No.107/G/IS/2024 dated 06.09.2024, and to set aside the same and directing the third respondent to produce the detenu, the petitioner's husband, C.Murugesan, @ Murugesu Pandian, aged 42 years, now confined in Central Prison, Coimbatore before this Court and thereby setting him at liberty.

For Petitioner : Mr.D.Ananthapadmanabhan

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, wife of the detenu viz. C.Murugesan @ Murugesu Pandian, aged 42 years, S/o.Chandrasahsan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 06.09.2023 slapped on her husband, branding him as "GOONDA" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video
Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

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

3. Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail by relying upon the bail order granted to the accused in a similar case, suffers from non-application of mind.

4. In paragraph No.7 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case since in a similar case, bail was granted to the detenu therein and relied upon an order passed by the learned Principal District and Sessions Judge, Coimbatore in C.M.P.No.2089 of 2020. On a perusal of the



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said order in page No.70 of the Booklet, Volume II, this Court finds that the said order relates to release of the accused on bail for the offence U/s.450, 395 and 397 I.P.C. whereas in the present case the petitioner / accused is convicted for the offence U/s.450, 395, 397, 120B, 109 and 506(i) I.P.C. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail suffers from non-application of mind, which vitiates the detention order.

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. In the instant case, the Detaining Authority has arrived at the subjective satisfaction that the detenu is likely to be released on bail by referring to a bail order granted to an accused in a similar case in C.M.P.No.2089 of 2020. However, the said bail was granted for the offence U/s.U/s.450, 395, 397 I.P.C. whereas the present



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petitioner was convicted for the offense U/s.450, 395, 397, 120B, 109 and 506(i) I.P.C. and therefore, the subjective satisfaction of the Detaining Authority that the detenu is likely to be released on bail suffers from non-application of mind. Hence, on the above grounds, the Detention Order is liable to be quashed.

6. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 06.09.2024 in C.No.107/G/IS/2024 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., C.Murugesan @ Murugesan Pandian, S/o. Chandrahasan, aged 42 years, confined in Central Prison, Coimbatore, 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.]
28.03.2025

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Index : Yes / No
Neutral Citation : Yes / No



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To

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