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H.C.P.No.470 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

H.C.P.No.470 of 2025

Sundari

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Veppery,
Chennai-600 007.

3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.

4.The Inspector of Police,
Central Crime Branch-II,
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Habeas Corpus, calling for the records relating to the detention order vide No.1296/BCDFGISSSV/2024 dated 30.12.2024 passed by the 2nd respondent and quash the same and direct the respondents herein to produce the petitioner's husband namely Satheesh Kumar, S/o.Periyasamy, aged about 46 years, who is presently undergoing detention in the Central Prison, Puzhal, before this Court and set him at liberty.

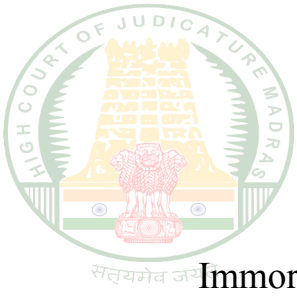
For Petitioner : Mr.N.Arun Kumar

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

ORDER

(Order of the Court was made by *M.S. RAMESH, J.*)

The petitioner herein, who is the wife of the detenu namely Satheesh Kumar, aged about 46 years, S/o.Periyasamy, has come forward with this petition challenging the detention order passed by the second respondent dated 30.12.2024 issued against her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas,



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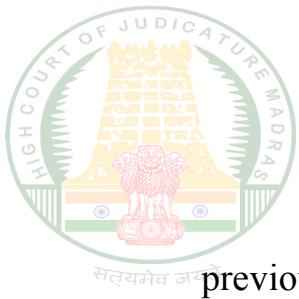
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Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum
Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, as well as 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
detenue 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, as the bail was granted in favour of the accused therein by recording
the fact that the co-acussed was granted bail and there was no previous
case.

4. On a perusal of the Booklet, this Court finds that the bail order
relied upon by the Detaining Authority in CrI.M.P.No.6057 of 2023, is not
similar to the case on hand since the accused therein was granted bail after
recording the fact that the co-acussed was granted bail and there was no



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previous case. However, it is admitted that there are 3 previous cases as against the detenu herein. 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 detenue is also likely to be released on bail, suffers from 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 paragraph Nos.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



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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 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



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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 30.12.2024 in No.1296/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Satheesh Kumar, aged about 46 years, S/o.Periyasamy, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[N.S, J.]

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

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- To
- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.
 - 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Vepery,
Chennai-600 007.
 - 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
 - 4.The Inspector of Police,
Central Crime Branch-II,
Chennai.
 - 5.The Public Prosecutor,
High Court, Madras.
 - 6.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.



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

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