



H.C.P.No.499 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

H.C.P.No.499 of 2025

Sakunthala

... Petitioner

Vs.

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

2.The District Collector and District Magistrate
Namakkal District
637 001

3.The Superintendent of Police
Namakkal District
637 003

4.The Superintendent
Central Prison, Salem
636 008



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5.The Inspector of Police
Mohanur Police Station
Namakkal District
637 015

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, call for the records of the detention 14.02.2025 in detention order No.CMP No.7/ Sexual Offender / 2025/[M1], in G.O.(D) No.27 on the file of the second respondent herein, and quash the same and direct the respondents herein to produce the petitioner's son Prakash, S/o.Selvam, Hindu, aged about 28 years, who is now confined in Central Prison, Salem before this Court and set him at liberty.

For petitioner : Mr.S.Kasirajan

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 detenu viz. Prakash, aged about 28 years, S/o.Selvam, has come forward with this petition challenging the detention order passed by the second respondent dated 14.02.2025 slapped on her son, branding him as "Sexual Offender" 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, 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 submitted that the subjective satisfaction of the detaining authority that the detenu is likely to come out on bail suffers from non application of mind, as the similar case relied upon by the detaining authority is not similar.

4. It is seen from the grounds of detention that the detaining authority has relied upon the bail order passed the learned Sessions (Fast Track Mahila) Judge, Namakkal, dated 03.09.2020, in CrI.M.P.No.340 of 2020, in Crime No.7 of 2020, for an accused in the said case. On a perusal of the said order, we find that in the similar case bail was granted to the accused



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for the offence U/s.6 r/w 5(1)(m), 12 r/w 11(1) of POCSO Act, 2012 and 506

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(i) IPC, whereas, in the present case, the accused was arrested for the offence U/s.5(f) r/w 6 of POCSO Act, 2012 and 3(1)(r) of Scheduled Case / Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015. Therefore, the said case cannot be said to be similar. Hence, the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu is likely to come out 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:-



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“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 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.”



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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 C.M.P.No.7/Sexual Offender/2025 (M1) dated 14.02.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz. Prakash, Male, aged about 28 years, S/o.Selvam, presently detained at Central Prison, Salem, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.] [V.L.N, J.]

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Index: Yes/No

Neutral Citation: Yes/No

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High Court of Madras
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