WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.566 of 2025

Santhosh Kumar ... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector,
Thiruppur District, Thiruppur.

3.The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore District.

4.The Superintendent of Police,
Thiruppur District, Thiruppur.

5.The Inspector of Police,
Avinashipalayam Police Station,
Thiruppur District. ... Respondents

https://www.mhc.tn.gov.in/judis

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent dated 30.01.2025 made in Cr.M.P.No.05/SEXUAL OFFENDER/2025 against the petitioner's brother namely Kumar, aged about 34 years, S/o.Ramaraj, who is confined at Central Prison, Coimbatore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Samson

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the brother of the detenu namely Kumar, aged about 34 years, S/o.Ramaraj, has come forward with this petition challenging the detention order passed by the second respondent dated 30.01.2025 issued against his brother, branding him as "Sexual Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,

https://www.mhc.tn.gov.in/judis

WEB COPY

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 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. On a perusal, it is seen that in paragraph 5 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 i.e. in Crl.M.P.No.600 of 2024 dated 14.08.2024, bail was granted to the accused therein and subsequently, the conditions in the bail order were modified in Crl.A.No.1392 of 2024 dated 13.11.2024. On a perusal of the

https://www.mhc.tn.gov.in/judis

WEB COPY

said order, this Court finds that the said order relates to release of the accused on bail u/s.167[2] of Cr.P.C. and the bail was granted to the accused therein since he had been in prison for more than 60 days and not on merits. 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. Hence, on this ground, the detention order is liable to be quashed.

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:-

https://www.mhc.tn.gov.in/judis

WEB COPY

*"**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."*

https://www.mhc.tn.gov.in/judis

WEB COPY

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 30.01.2025 in Cr.M.P.No.05/SEXUAL OFFENDER/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Kumar, aged about 34 years, S/o.Ramaraj, 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.]**

11.06.2025

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

Sni

https://www.mhc.tn.gov.in/judis

WEB COPY

To

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai-600 009.

2.The District Magistrate and District Collector,
Thiruppur District, Thiruppur.

3.The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore District.

4.The Superintendent of Police,
Thiruppur District, Thiruppur.

5.The Inspector of Police,
Avinashipalayam Police Station,
Thiruppur District.

6.The Public Prosecutor,
High Court, Madras.

7.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.

https://www.mhc.tn.gov.in/judis

WEB COPY

M.S.RAMESH, J.
and
V. LAKSHMINARAYANAN, J.

Sni

H.C.P.No.566 of 2025

11.06.2025

https://www.mhc.tn.gov.in/judis