



H.C.P.No.836 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.836 of 2025

Shantha Bhai

... Petitioner

Vs.

1.The Additional Chief Secretary,
Home, Prohibition & Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai Police,
Chennai – 600 066.

3.The Superintendent of Prisons,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
(Law and Order),
C1, Flower Bazar Police Station,
Chennai, Tamil Nadu.

... Respondents

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



H.C.P.No.836 of 2025

issue a Writ of Habeas Corpus, calling for the records pertaining to the order of detention dated 04.04.2025 passed by the 2nd respondent in No.179/BCDFGISSSV/2025 against the detenu namely Karthick Bhimrao Koli, Male, aged about 27 years, S/o.Bhimrao Koli, who is confined in Central Prison, Puzhal, Chennai and set aside the same and consequently direct the respondents to produce the body and person of the detenu, before this Court and set him at liberty.

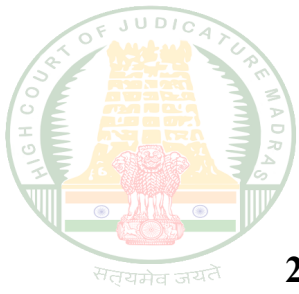
For Petitioner : Mr.K.Subburam

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 mother of the detenu namely Karthick Bhimrao Koli, aged about 27 years, S/o.Bhimrao Koli, has come forward with this petition challenging the detention order passed by the second respondent dated 04.04.2025, issued against her son, branding him as "Goonda" 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].



H.C.P.No.836 of 2025

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 in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his arguments on the ground that the Detaining Authority has relied upon the order passed in Crl.M.P.No.5203 of 2023 dated 03.11.2023 and came to the conclusion that in a similar case bail has been granted and that there is a likelihood of the detenu also to be released on bail. The learned counsel further submitted that the order relied upon by the Detaining Authority is not similar, as the offences in the similar case are different from the detenu's case and therefore, there is a non-application of mind on the part of the Detaining Authority.

4. On a perusal of the Grounds of Detention and the booklet, it is seen that in the order that was relied upon by the Detaining Authority in Crl.M.P.No.5203 of 2023 dated 03.11.2023, the accused therein was enlarged on bail for the offences under Sections 24(1) of Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of



H.C.P.No.836 of 2025

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Trade and Commerce, Production, Supply and Distribution) Act 2003 and 328 of IPC. However, in the present case, the offence involved is under Section 123 of BNS Act, which is not similar to the case relied upon by the Detaining Authority. It is in the said circumstances, this Court finds that the subjective satisfaction arrived at by the Detaining Authority suffers from non-application of mind, as the offences involved in the similar case is distinctive from the detenu's case. Hence, on the above 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:-



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H.C.P.No.836 of 2025

“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.”



H.C.P.No.836 of 2025

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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 on 04.04.2025 in No.179/BCDFGISSSV/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Karthick Bhimrao Koli, aged about 27 years, S/o.Bhimrao Koli, 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.]

10.07.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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H.C.P.No.836 of 2025

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- 4.The Inspector of Police,
(Law and Order),
C1, Flower Bazar Police Station,
Chennai, Tamil Nadu.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.



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H.C.P.No.836 of 2025

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H.C.P.No.836 of 2025

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