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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

H.C.P.No.911 of 2025

Gayathri ... Petitioner

Vs.

1.The State of Tamilnadu
Represented by its Secretary
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate
Mayiladuthurai District
Mayiladuthurai

3.The Superintendent of Police
Mayiladuthurai District
Mayiladuthurai

4.The Superintendent
Central Prison
Cuddalore
Cuddalore District

5.The Inspector of Police
Perambur Police Station
Tharangambadi Taluk
Mayiladuthurai District ... Respondents

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Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to call for the records made in C.O.C.No.10/2025 dated 10.03.2025 on the file of second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Rajkumar, Son of Radha, 34 years, now confined at Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

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

ORDER

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

The petitioner, who is the wife of the detenu viz., Rajkumar, Male, aged about 34 years, S/o.Radha, confined at Central prison, Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent dated 10.03.2025 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand 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 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 4 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 C.M.P.No.570 of 2021, bail was granted to the accused therein. On a perusal of the said order, in page No.66 of the Booklet in Volume II, 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 90 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

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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:-

> ***"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*

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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 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.O.C.No.10/2025, dated 10.03.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Rajkumar,

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aged about 34 years, S/o.Radha, confined at Central Prison, Cuddalore, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[M.S.R, J.] [V.L.N, J.]
30.06.2025

kas

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

To

1.The Secretary
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Collector and District Magistrate
Mayiladuthurai District
Mayiladuthurai

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5.The Inspector of Police
Perambur Police Station
Tharangambadi Taluk
Mayiladuthurai District

6.The Public Prosecutor
High Court of Madras
Chennai 600 104

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and
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