



H.C.P.No.986 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

and

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

H.C.P.No.986 of 2025

Kumaran

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Salem City.

3.The Superintendent,
Central Prison, Salem – 636 007.

4.STATE; rep. by the Inspector of Police,
AWPS Salem Town Police Station,
Salem City.
(Crime No.19 of 2025)

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records leading to the detention of petitioner's son, the Detenue Thiru.Karthick,



H.C.P.No.986 of 2025

aged 36, son of Kumaran, Door No.5/363, Mariamman Kovil Street, Kattur, Amani Kondalampatty, Salem District presently detained in Central Prison, Salem, under Act 14/1982, branded as 'sexual offender' vide the detention order dated 25.04.2025 in C.M.P.No.17/Sexual Offender/Salem City/2025, on the file of the 2nd respondent herein, directing to produce the person of the Detenue Thiru.Karthick, aged 36, son of Kumaran, before this Court and thereafter set him at liberty from the Central Prison, Salem by set aside the above order.

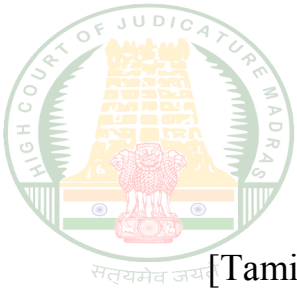
For Petitioner : Mr.B.Vasudevan

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 father of detenu viz., Karthick, son of Kumaran, aged about 36 years, now confined in Central Prison, Salem, has come forward with this petition challenging the detention order passed by the second respondent dated 25.04.2025, issued on his son, branding him as "Sexual Offender" 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



H.C.P.No.986 of 2025

[Tamil Nadu Act 14 of 1982].

WEB COPY

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 this petition, the learned counsel for the petitioner focused mainly on the ground that the relatives of Karthick is again taking efforts to move bail application to take him out on bail for the above case, suffers from non-application of mind, as the statement under 180(iii) of BNSS., said to have been made by the petitioner / father of the detainee before the Sponsoring Authority, is not dated. Hence, the learned counsel for the petitioner raised a *bona fide* doubt as to when this statement was obtained from the petitioner. The learned counsel further pointed out that, unless the statement relied upon by the Sponsoring Authority is immediately before the Detaining Authority, it may not have relevance and hence, the subjective satisfaction of the Detaining Authority based on this undated statement, would vitiate the Detention Order.



WEB COPY

4.It is seen from records that the statement obtained by the Sponsoring Authority from the petitioner enclosed in the Booklet, stating that he is planning to file a bail application to bring out the detenue on bail, is not dated. On a perusal of the Grounds of Detention, it is seen that, in Para No.4, the Detaining Authority has observed that the Sponsoring Authority has stated that he came to know that the relatives of the detenu is taking steps to take him out on bail by filing bail application before the appropriate Court and has arrived at the subjective satisfaction that the detenu is likely to be released on bail. When the statement obtained by the Sponsoring Authority from the father of the detenue stating that he is planning to file bail application to bring out the detenue on bail is not dated, the veracity of such statement becomes doubtful. The compelling necessity to detain the detenue would also depend on when the statement was obtained. In the absence of the date, the compelling necessity to detain, becomes suspicious. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority based on such undated material, 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



WEB COPY

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 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



WEB COPY



H.C.P.No.986 of 2025

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 bearing C.M.P.No.17/Sexual Offender/Salem City/2025, dated 25.04.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The petitioner's son / detenu viz., Karthick, son of Kumaran, aged about 36 years, now confined in Central Prison, Salem, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.



H.C.P.No.986 of 2025

(M.S.R., J)

(V.L.N., J)

WEB COPY

30.07.2025

krk

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

To

- 1.The State of Tamil Nadu,
Rep. by its Secretary of Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police,
Salem City.
- 3.The Superintendent,
Central Prison, Salem – 636 007.
- 4.STATE; rep. by the Inspector of Police,
AWPS Salem Town Police Station,
Salem City.
- 5.The Joint Secretary,
Law and Order Department, Secretariat, Chennai.
- 6.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH, J.
and

V.LAKSHMINARAYANAN, J.

krk



WEB COPY



H.C.P.No.986 of 2025

H.C.P.No.986 of 2025

30.07.2025