

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-09-2025

CORAM:

THE HONOURABLE MRS. JUSTICE **J. NISHA BANU**

AND

THE HONOURABLE MR. JUSTICE **S. SOUNTHAR**

H.C.P.No.997 of 2025

Porselvi,

W/o Munusamy

..Petitioner

Vs.

1. Government of Tamilnadu, rep. by its
Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2. The Commissioner of Police,
Chennai City.

3. The Superintendent of Prison,
Central kPrison,
Puzhal, Chennai.

4. The Inspector of Police,
H3, Tondiarpet Police Station,
Chennai District.

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, to call for the records in detention order passed in No.250/BCDFGISSV/2025 dated 13.05.2025 on the file of the 2nd respondent herein and quash the same and direct the respondents herein to produce the petitioner's son,

Thiru.Giridharan, S/o Munusamy M/A 24 years, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.D.Padmanabhan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

J.Nisha Banu,J.
and
S.Sounthar,J

The petitioner is the mother of the detenu, viz., Giridharan, S/o Munusamy, aged about 24 years, who is confined at Central Prison, Puzhal Chennai, has come forward with this petition challenging the detention order passed by the second respondent in Memo No.250/BCDFGISSV/2025 dated 13.05.2025 branding him as "Drug 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 [Tamil Nadu Act 14 of 1982] read with the order issued by the Government in G.O.(D).No.97, Home Prohibition and Excise (XVI) Department dated 11.04.2025 under

section 3(2) of the aforesaid Act.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail. It is his submission that the case relied upon by the Detaining Authority, is not similar to the present case, as the bail was granted in favour of the accused therein on the ground that there was no previous case but in the present case, the detenue is having two previous cases.

4. Learned Additional Public Prosecutor would also state that the similar case relied upon by the detaining authority is not a similar one.

5. On a perusal of the Booklet, this Court finds that in Vol.II, Page 63 to 65, the bail order passed in the case relied upon by the Detaining Authority, in CrI.M.P.No.1414 of 2021, dated 04.06..2021, is not similar

to the case on hand, since the accused therein was released on bail mainly on the ground that there was no previous case against the said accused but in the present case, the detenue is having two previous cases. Therefore, this Court finds that the subjective satisfaction of the Detaining Authority is irrational and the detention order is liable to quashed on the ground of non-application of mind.

6. 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. In the instant case, the Detaining Authority has arrived at the subjective satisfaction that the detenu is likely to be released on bail by referring to a bail order granted to the accused in a similar case, wherein, the said bail was granted mainly by citing Covid-19 Pandemic. Therefore, the subjective satisfaction of the Detaining Authority that the detenu is likely to be released on bail suffers from non-application of mind. 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 paragraphs No.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 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."

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 Habeas Corpus Petition is allowed and the detention order passed by the second respondent in No.250/BCDFGISSV/2025 dated 13.05.2025 is hereby set aside. The detenu, viz., Giridharan, Son of Munusamy, aged about 24 years, who is now confined in the Central Prison, Puzhal, Chennai, is hereby directed to be set at liberty forthwith unless his presence is required in connection with any other case.

(J.NISHA BANU J.) (S.SOUNTHAR J.)
22.09.2025

vsi

To
Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

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3. The Superintendent of Prison,
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Puzhal, Chennai.
4. The Inspector of Police,
H3, Tondiarpet Police Station,
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6. The Public Prosecutor,
High Court, Madras

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