



H.C.P.No.1009 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

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Sumathi

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. by its Addl. Chief Secretary to Government
Home, Prohibition & Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police
Greater Chennai Police
Vepery, Chennai - 600 008

3.The Superintendent
Central Prison
Puzhal, Chennai 600 066

4.The Inspector of Police
L & O, S7, Madipakkam Police
Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, to call for the records relating to the



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proceedings of the 2nd respondent in BCDFGISSSV No.201/2025, dated 17.04.2025, against the petitioner's son viz. Prasanth, male aged about 25 years, S/o.Kuppusamy, and quash the same and consequently, direct the respondents herein to produce the detenu, who is detained under the Tamil Nadu Act 14 of 1982, currently confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.G.Pandian

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

ORDER

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

The petitioner, who is the mother of the detenu viz. Prasanth, aged 25 years, S/o.Kuppusamy, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 17.04.2025 slapped on her son, 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 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 only by referring to Covid-19 pandemic. Apart from that there are three adverse cases as against the petitioner herein.

4. On a perusal of the Booklet, this Court finds that the bail order passed in the case relied upon by the Detaining Authority, in CrI.M.P.No.3636 of 2020, dated 24.11.2020, is not similar to the case on hand, since the accused therein was released on bail mainly by citing Covid-19. This apart, the petitioner herein has got three adverse 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.



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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. 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



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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."

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.



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7. Accordingly, the detention order passed by the second respondent, in No.201/BCDFGISSSV/2025, dated 17.04.2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz. Prasanth, Male, aged 25 years, S/o.Kuppusamy, who is confined at Central Prison, Puzhal, Chennai, 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.]

22.07.2025

kas

Index: Yes/No

Neutral Citation

Speaking / Non Speaking

To

1.The Additional Chief Secretary to Government
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2.The Commissioner of Police
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4.The Inspector of Police
L & O, S7, Madipakkam Police
Chennai

5.The Public Prosecutor,
High Court of Madras
Chennai 600 104



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