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HCP.No.1148 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.1148 of 2025

Geetha

Petitioner/Mother of Detenu

Vs

- 1.State of Tamil Nadu Rep by
The Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.
 - 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Greater Chennai, Chennai.
 - 3.The Superintendent of Prison,
Central Prison,
Puzhal, Chennai District.
 - 4.The Inspector of Police,
K-4, Anna Nagar Police Station,
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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detention order vide Memo No.160/BCDFGISSSV/2025 dated 21.03.2025, passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Mohanlal @ White Mohan, aged about 23 years, (who is presently under going detention in the central prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.M.Bhavani

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

ORDER

M.S.RAMESH, J.

and

V. LAKSHMINARAYANAN, J.

The petitioner herein, who is the mother of the detenu, Mohanlal @ White Mohan S/o. Kishorekumar, aged about 22 years, now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 21.03.2025 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



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Offenders, Sand Offenders, Sexual 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 in the 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 CrI.O.P.No.30749 of 2024 dated 10.12.2024 and came to a
conclusion that in a similar case bail has been granted and that there is a
likelihood of the detainee also to be released on bail. The learned counsel
for the petitioner 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 detainee'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

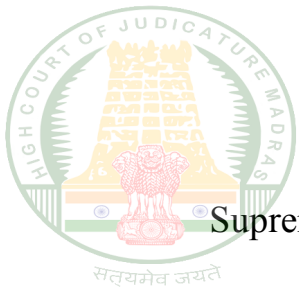


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Crl.O.P.No.30749 of 2024 dated 10.12.2024, the accused therein was enlarged on bail for the offences under Sections 103 of BNS. However, in the present case, the offences involved are under Sections 103, 126(2), 191(2), 191(3), 296(b) and 351(3) of BNS, which are 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 paragraphs 10 and 11 of the said judgment of the Hon'ble



Supreme Court:-

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“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.”



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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. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 21.03.2025 in No.160/BCDFGISSSV/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mohanlal @ White Mohan s/o. Kishorekumar, aged about 22 years, now 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]

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No



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To

The Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Greater Chennai, Chennai.

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

4.The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai.

5.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

6.The Public Prosecutor,
High Court, Madras.



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