



WEB COPY

HCP No. 1122 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-10-2025

CORAM

**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE S. SOUNTHAR**

HCP No. 1122 of 2025

1. KALAIVANI, F/28 yeas
W/o. Ganesh, No.74, Erikkarai Street,
Sasi Nagar, Velacherry, Chennai - 42.

Petitioner(s)

Vs

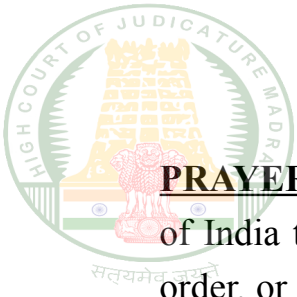
1. The State of Tamil Nadu,
rep. by the Additional Chief Secretary to
Government,
Home, Prohibition and Excise Department
Fort St.George, Chennai - 600009.

2.The commissioner of Police,
Greater Chennai, Vepery, Chennai- 600007.

3.The Superintendent,
Central Prison, Puzhal, chennai - 600066.

4.The Inspector of Police,
J-7, Velachery police Station, chennai District.

Respondent(s)



PRAYER: This Habeas Corpus Petition filed under Article 226 of Constitution of India to To issue a Writ of Habeas Corpus or any other appropriate writ, or order, or direction, in the nature of the writ calling for the records relating to the Detention order BCDFGISSSV No.240/2025 Dated 02.05.2025 passed by the Second Respondent and quash the same and direct the respondents herein to produce petitioner's Brother namely Karthi aged about 31 years, S/o. Elumalai (who is now confined in Central Prison, Puzhal, chennai) before the Hon'ble court, and set him at liberty.

For Petitioner(s): Mr.V.Saravanan

For Respondent(s): Mr.A.Gokulakrishnan,
Additional Public Prosecutor

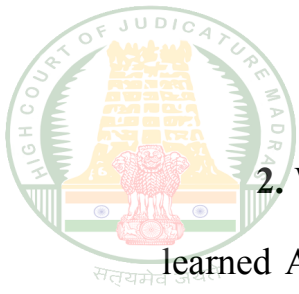
ORDER

J. NISHA BANU, J.

and

S. SOUNTHAR, J.

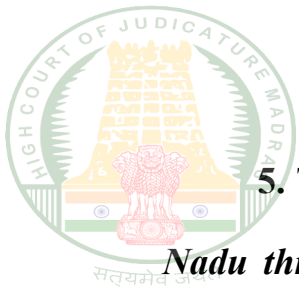
The petitioner is the brother of the detainee, viz., Karthi, S/o Elumalai, aged about 31 years, S/o. Elumalai, has come forward with this petition challenging the detention order passed by the second respondent in BCDFGISSSV No.240/2025 Dated 02.05.2025, branding the detainee as "Drug Offender" under 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].



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 bail order relied upon by the Detaining Authority is not similar to the case on hand, by referring to the fact that bail was granted to the accused therein, mainly on the ground he has no previous case, but here in this case, the petitioner has one previous case. Therefore, the learned counsel submitted 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.

4. On a perusal of page No.61 of Volume-II Booklet, this Court finds that, in the similar case relied upon by the Detaining Authority, i.e. CrI.M.P.No.1414 of 2021, dated 04.06.2021, the accused therein was granted bail mainly on the ground that no previous case is pending against him. But, the learned Additional Public Prosecutor submitted that one adverse case is pending against the petitioner. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority that the detenu is also likely to be released on bail, by relying upon the aforesaid similar case, 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 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 grounds of detention cannot sustain the detention order and has to be ignored.



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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.”

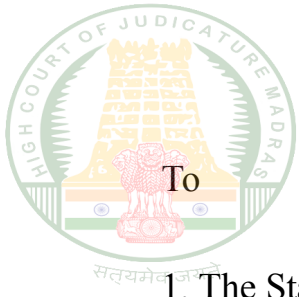
6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. Accordingly, the detention order passed by the second respondent on 02.05.2025 in BCDFGISSSV No.240//2025 is hereby set aside and the Habeas Corpus Petition is allowed. The detainee viz., **Karthi, aged about 31 years, S/o Elumalai**, confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

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

07/10/25

MST



To

1. The State of Tamil Nadu,
rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department
Fort St.George, Chennai - 600009.

2. The commissioner of Police,
Greater Chennai, Vepery, Chennai- 600007.

3. The Superintendent,
Central Prison, Puzhal, chennai - 600066.

4. The Inspector of Police,
J-7, Velachery police Station, chennai District.

5. The Public Prosecutor,
Madras High Court.



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S.SOUNTHAR J.

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