



H.C.P.No.1124 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 12.09.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

H.C.P.No.1124 of 2025

Kandasamy

... Petitioner/Father of the Detenu

-VS-

1. The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.
 2. The District Magistrate and District Collector,
O/o.District Collector and District Magistrate,
Namakkal District, Namakkal.
 3. The Superintendent,
Central Prison, Salem,
Salem District.
 4. The Superintendent of Police,
O/o.Superintendent of Police,
Namakkal District, Namakkal.
 5. The State Rep. by its
The Inspector of Police,
Mohanur Police Station,
Namakkal District.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue



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a writ of Habeas Corpus, calling for the entire records, relating to the impugned order of detention passed by the second respondent in C.M.P.No.42/Sexual Offender/2025/(M1) dated 09.05.2025 and set aside the same and consequently direct the respondents to produce the detenu, Vinoth, S/o. Kandasamy, aged about 26 years, petitioner's son now confined at Central Prison, Salem before this Honourable Court and set him at liberty forthwith.

For Petitioner : M/s.R.Raji
For Respondents : Mr.A.Gokulakrishnan
Addl. Public Prosecutor

ORDER

J.NISHA BANU, J.
AND
S.SOUNTHAR, J.

The petitioner herein, who is the father of the detenu, namely Vinoth, S/o. Kandasamy, aged about 26 years, detained at Central Prison, Salem, has come forward with this petition challenging the detention order dated 09.05.2025, passed by the second respondent in C.M.P.No.42/Sexual Offender/2025/(M1), branding him as "Sexual Offener", as contemplated under Section 2 (ggg) of 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).



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2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that in the absence of any bail application moved by the detenu, the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail, by relying upon the bail order dated 07.08.2023, granted to the accused in a similar case in C.M.P.No.1358 of 2023, suffers from non-application of mind.

4. In paragraph No.4 (i) (ii) of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case, since, in a similar case, bail was granted to the detenu therein and relied upon an order passed by the Principal Sessions (Fast Track Mahala), Namakkal in Crime No.8 of 2023 on the file of Tiruchengode All Women Police Station. On a perusal of the



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said order in page No.4 of the Booklet (Vol.II), this Court finds that the said order relates to release of the accused therein on the ground of completion of investigation and long incarceration, which is not the case herein. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail suffers from non-application of mind, which vitiates the detention order.

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 an accused in a similar case in Cr.M.P.No.1358 of 2023. However, the said bail was granted on the ground that the investigation has been completed and not on merits and therefore, the subjective satisfaction of the Detaining



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Authority that the detenu is likely to be released on bail suffers from non-application of mind. Hence, on the above grounds, the Detention Order is liable to be quashed.

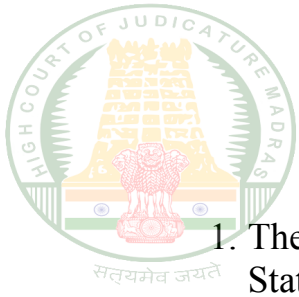
6. For the aforesaid reasons, this Habeas Corpus Petition is allowed and the Detention Order passed by the Second respondent in C.M.P.No.42/Sexual Offender/2025/(M1) dated 09.05.2025, is hereby set aside. The detenu, viz., Vinoth, S/o. Kandasamy, aged 26 years, who is now confined in the Central Prison, Salem is hereby directed to be set at liberty forthwith unless his presence is required in connection with any other case.

(J.N.B.J.) (S.S.J.)
12.09.2025

Index: Yes / No
Internet: Yes / No
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AND
S.SOUNTHAR, J.
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To:



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6. The Public Prosecutor,
High Court, Madras.

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