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HCP No. 1285 of 2025



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. 1285 of 2025

1. B.Muniammal
W/O R.Babu, No.1, Nethaji Street,
Taramani, Chennai - 600113.

Petitioner(s)

Vs

1. The Additional Chief Secretary to the
Government
Home Prohibition and Excise
Department, Secretariat, Chennai -
600009.

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

3.The Superintendent of Prison
Central Prison, Puzhal, Chennai -
600066.

4.The Inspector Of Police
J-13, Taramani Police Station,
Taramani, Chennai - 600113.

Respondent(s)

**PRAYER**

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To issue a Writ of Habeas Corpus or order by calling for the entire records in respect of the detention order passed by 2nd respondent dated 04.06.2025 in detention order No.312/BCDFGISSSV/2025 and quash the same consequently directed the respondents to set the detenu Sankar at liberty forthwith who is now confined in Central Prison Puzhal Chennai.

For Petitioner(s): D.Rajagopal

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

ORDER

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

The petitioner/mother of the detenu, viz., Sankar, S/o Babu, aged 22 years, now confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in No.312/BCDFGISSSV/2025 dated 04.06.2025, branding him as "Goonda" 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



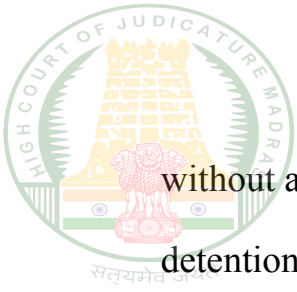
also perused the records produced by the Detaining Authority.

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 that the accused was alleged to have caused murder due to sudden provocation. 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. Learned Additional Public Prosecutor would also fairly state that the similar case relied upon by the detaining authority is not a similar one.

5. On a perusal of the Booklet at page No.115, this Court finds that in the similar case relied upon by the Detaining Authority, i.e., CrI.O.P.No.30749 of 2024, dated 10.12.2024, the accused therein was granted bail mainly on the ground that the accused was alleged to have caused murder due to sudden provocation. However, in the present case, due to previous enmity, the detenu along with other accused are alleged to have assaulted the deceased with deadly weapons. 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.

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. 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.”

7. 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.

8. Accordingly, the detention order passed by the second respondent in No.312/BCDFGISSSV/2025 dated 04.06.2025 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sankar, S/o Babu, aged 22 years, detained 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.)

07-10-2025

vsi

To

1. The Additional Chief Secretary to the
Government
Home Prohibition and Excise Department,
Secretariat, Chennai-600009.

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



3. The Superintendent of Prison

Central Prison, Puzhal, Chennai - 600066.

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4. The Inspector Of Police

J-13, Taramani Police Station, Taramani,
Chennai - 600113.

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

6. The Public Prosecutor, High Court, Chennai.



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