



H.C.P.No.1213 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-09-2025

CORAM:

THE HONOURABLE MRS. JUSTICE **J. NISHA BANU**

AND

THE HONOURABLE MR. JUSTICE **S. SOUNTHAR**

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Rajamani,

W/o Kulanthivel

... Petitioner

Vs.

The State

1. The Secretary to Government (Home),
Prohibition & Excise Department,
Government of Tamilnadu,
Tamilnadu Secretariat, Fort St.George,
Chennai - 600 009

2. The District Magistrate and District Collector,
Salem District,
Salem.

3. The Superintendent of Police,
Salem District, Salem.

4. The Superintendent of Prison,
Salem Central Prison, Salem.

5. The Inspector of Police,
Attur Prohibition Enforcement Wing,
Salem District

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, to call for records pertaining to the order of detention dated 06.05.2025 passed by the 2nd respondent in C.M.P.No.04/BOOTLEGGERS/C2/2025 and



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quash the same and produce the detenu, Kulanthaiyan @ Kulanthaivel, S/o Chinnandi, aged about 30 years, detained at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.P.Bakiyaraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

The petitioner is the wife of the detenu, viz., Kulanthaiyan @ Kulanthaivel, aged 30 years, S/o Chinnandi, has come forward with this petition challenging the detention order passed by the second respondent in C.M.P.No.04/BOOTLEGGERS/C2/2025 dated 06.05.2025, branding him as "BOOTLEGGERS" 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] read with the order issued by the Government in G.O.(D).No.127 Home Prohibition and Excise (XVI) Department dated 11.04.2025 under sub section (2) of Section 3 of the said Act.

2. We have heard the learned counsel appearing for the petitioner



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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 have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detaining authority has stated in the grounds of detention that in similar case, bail was granted by the Principal Sessions Judge Court, Salem, on 17.04.2025, for a similar case of Attur Prohibition Criminal M.P.No.1070/2025 Enforcement Wing in Crime No.807/2024, u/s 4(1) (C), 4(1-A)(iii) Tamilnadu Prohibition (Amended) Act, 2024, registered against one Raman. However, in the said case i.e., Cr.No.807/2024, bail was granted recording the fact that he was in possession of 5 litres of illicit arrack and there was no previous case. Whereas in this case, the detenu is having one adverse case. Hence, 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. Therefore, the learned counsel would state that the similar case referred to was not similar and on that score, the detention order is liable to be interfered with.

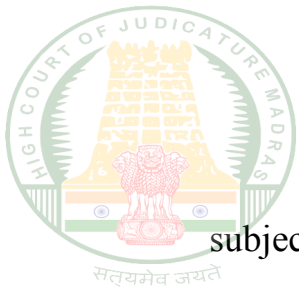


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4. On careful perusal of the detention order, it is seen that the similar case referred by the detaining authority shown in page No.9 of the booklet i.e., Crl.M.P.No.1070/2025 registered in Cr.No.807/2024, in respect of the accused Raman, bail was granted, recording the fact that the accused was in possession of 5 litres of illicit arrack and there was no previous case for him. In the present case, the detenu is having one adverse case and was in possession of 60 litres of illicit arrack in the ground case. However, the detaining authority took into consideration the said order passed in Crl.M.P.No.1070/2025 registered in Cr.No.807/2024 and came to the conclusion that there is a likelihood of the detenu coming out on bail. Therefore, the bail order that was relied upon by the detaining authority cannot be considered to be a similar one.

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



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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:-

“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



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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.

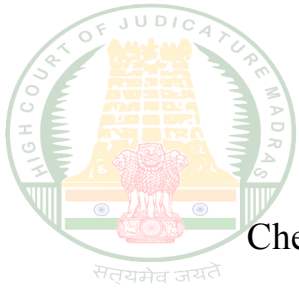
7. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent respondent in C.M.P.No.04/BOOTLEGGERS/C2/2025 dated 06.05.2025 is hereby set aside. The detenu, viz., Kulanthaiyan @ Kulanthaivel, S/o Chinnandi, aged 30 years, who is now confined in the Central Prison, Salem, is hereby directed to be set at liberty forthwith unless her presence is required in connection with any other case.

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

11-09-2025

vsi
To

1. The Secretary to Government (Home),
Prohibition & Excise Department,
Government of Tamilnadu,
Tamilnadu Secretariat, Fort St.George,



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4. The Superintendent of Prison,
Salem Central Prison, Salem.
4. The Inspector of Police,
Attur Prohibition Enforcement Wing,
Salem District.
5. The Central Prison,
Salem.
6. The Public Prosecutor,
High Court of Madras,
Chennai.



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