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HCP No. 1211 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. 1211 of 2025

1. Muniyandi, M/59 years
S/o. Rethinavel, No.872,
Annai Indragandhi, R.M.S. Colony,
Vilar, Thanjavur-613006.

Petitioner(s)

Vs

1. The Additional Chief Secretary to Govt.
Home, Prohibition and Excise Department,
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Avadi City.

3.The Superitendent of Prison
Central Prison, Puzhal, Chennai-66.

4.The Inspector of Police
M-5 Ennore Police Station, Chennai.

Respondent(s)

**PRAYER:**

Habeas Corpus Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus or any other Writ or order in the nature of Writ call for the records in Connection with the order of Detention passed by the second respondent dated 17.06.2025 in MEMO No.87/BCDFGISSSV/2025 against the petitioner's son namely Mathivanan, Male, aged 30 years, S/o. Muniyandi, who is confined at Central Prison, Puzhal and set aside the same and direct the respondents to produce the detainee before the Honble Court and set him at liberty.

For Petitioner(s): Mr.S.Senthilvel

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

ORDER

J. NISHA BANU, J.

and

S. SOUNTHAR, J.

The petitioner, who is the father of the detainee, viz., Mathivanan, aged 30 years, S/o. Muniyandi, has come forward with this petition challenging the detention order passed by the second respondent in Memo No.87/BCDFGISSSV/2025 Dated 17.06.2025, branding the detainee 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 in CrI.O.P.No.24833 of 2023, dated 16.11.2023, 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 persons therein, mainly on the ground they have 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.100 of Volume-II Booklet, this Court finds that, in the similar case relied upon by the Detaining Authority, i.e. CrI.O.P.No.24833 of 2023, dated 16.11.2023, the accused persons therein were granted bail mainly on the ground that no previous case is pending against them. But, the learned Additional Public Prosecutor submitted that one adverse case is pending against the petitioner herein. 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]**

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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



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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.”

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 17.06.2025 in Memo No.87/BCDFGISSSV/2025 is hereby set aside and the Habeas Corpus Petition is allowed. The detinue viz., **Mathivanan, S/o Muniyandi, aged 30 years**, 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.)

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1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department
Secretariat, Chennai - 600009.
2. The commissioner of Police,
Avadi City.
3. The Superintendent,
Central Prison, Puzhal, Chennai - 600066.
4. The Inspector of Police,
M-5, Ennore Police Station, Chennai.
5. The Public Prosecutor,
Madras High Court.



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