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HCP No. 1358 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

CORAM

THE HONOURABLE MRS JUSTICE J. NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

H.C.P No. 1358 of 2025

1. Kesavaraj

S/o. Srinivasan, No.7, Agasthiyar
Street, Tharamani, Chennai 600113.

Petitioner(s)

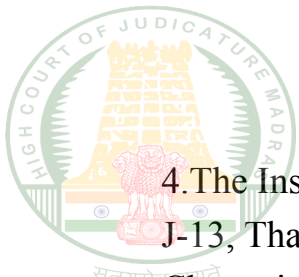
Vs

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 of Prison
Central Priosn, Puzhal,
Chennai 600066.



4. The Inspector of Police
J-13, Tharamani Police Station,
Chennai.

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Respondent(s)

PRAYER

The Habeas Corpus Petition is filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Memo No.311/BCDFGISSSV/2025 dated 04.06.2025 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Mohana Sundaram S/o Kesavaraj aged about 25 years of the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner(s): Mr. S. Mohan Raj

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

ORDER

J.NISHA BANU, J.

AND

S.SOUNTHAR, J.

The petitioner/father of the detenu, viz., Mohanasundaram, S/o Kesavaraj, aged 25 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.311/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].

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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. 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. The 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, this Court finds that in Page Nos.30 to 33 of the Volume-II, the case relied upon by the Detaining Authority in Crl.O.P.No.30749 of 2024, dated 10.12.2024 is not similar to the case on hand. The accused therein was granted bail mainly on the ground that there was no intention or motive on the part of the accused to murder his father and on the alleged date of occurrence, there was a quarrel between them and the incident



had happened only during the quarrel. But, the overt act attributed against the accused herein is entirely different. Due to previous enmity, the detenu along with other accused were alleged to have murdered the deceased. 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



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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 out on bail and there was no reliable material to this effect. Hence, the detention order in question cannot be sustained.”

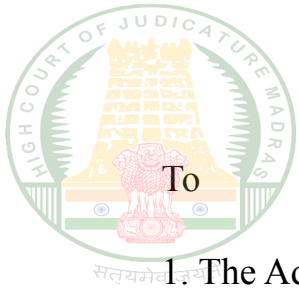
7. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

8. Accordingly, the detention order passed by the second respondent in No.311/BCDFGISSSV/2025 dated 04.06.2025 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., **Mohanasundaram, S/o. Kesavaraj**, aged 24 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.)

08-10-2025

ASI



To

1. The Additional Chief Secretary to

WEB GOVERNMENT

Home, Prohibition and Excise
Department, Fort St. George,
Chennai 600009.

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

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

4. The Inspector of Police
J-13, Tharamani Police Station,
Chennai.

5. The Public Prosecutor,
High Court of Madras, Chennai.



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