



H.C.P.No.1383 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.09.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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Mrs.M.Mariamamma

... Petitioner/Mother of detainee

-VS-

1. The Principal Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2. The Commissioner of Police,
Commissioner Office, Vepery,
Chennai-600 007.

3. The Inspector of Police,
W-13, All Women Police Station,
Washermenpet, Chennai-600 021.

4. The Superintendent,
Central Prison, Puzhal,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the 2nd respondent dated 15.05.2025 vide Order in Memo No.256/BCDFGISSSV/2025 against the Petitioner's son, Madhan



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Kumar, aged about 35 years, S/o.Mahadevan, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the 2nd respondent to produce the detenue before this Court thereby setting him at liberty.

For Petitioner : Mr.S.Shankar
For Respondents : Mr.A.Gokulakrishnan
Addl. Public Prosecutor

ORDER

(By J.Nisha Banu,J.)

The petitioner herein, who is the mother of the detenu, namely Madhan Kumar, S/o.Mahadevan aged about 35 years, detained at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order dated 15.05.2025, passed by the second respondent in Memo No.256/BCDFGISSSV/2025, branding him as a "Sexual Offender", 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).

2. Heard the learned counsel for the petitioner and the learned



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Additional Public Prosecutor appearing for the respondents.

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3. Though several grounds are raised in this petition, the learned counsel for the petitioner focused mainly on the ground that the subjective satisfaction of the Detaining Authority that a relative of the detenu is taking steps to take out the detenu on bail, suffers from non-application of mind, as the statement under 180 (iii) of BNSS, said to have been made by the detenu's relative before the Sponsoring Authority, is not dated. Hence, the learned counsel for the petitioner raised a *bona fide* doubt as to when this statement was obtained from the detenue's relative. The learned counsel further pointed out that, unless the statement relied upon by the Sponsoring Authority is immediately before the Detention Order, it may not have relevance and hence, the subjective satisfaction of the Detaining Authority based on this undated statement, would vitiate the Detention Order.

4. It is seen from records that the statement obtained by the Sponsoring Authority from the detenu's relative, enclosed in the Booklet at Pg.No.103 of Vol.I stating that she is planning to file a bail application to



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bring out the detenu on bail, is not dated. On a perusal of the Grounds of Detention, it is seen that, in Para No.4, the Detaining Authority has observed that the Sponsoring Authority has stated that he came to understand that the relative of the detenu is taking steps to take him out on bail by filing bail application before the appropriate Court and has arrived at the subjective satisfaction that the detenu is likely to be released on bail. When the statement obtained by the Sponsoring Authority from the relative of the detenu stating that she is planning to file bail application to bring out the detenu on bail is not dated, the veracity of such statement becomes doubtful. The compelling necessity to detain the detenu would also depend on when the statement was obtained. In the absence of the date, the compelling necessity to detain, becomes suspicious. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority based on such undated material, 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] SCC 244'***, has dealt with a situation where the Detention Order is



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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.

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.”



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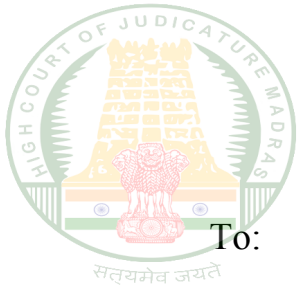
6. In view of the ratio laid down by the Hon'ble Supreme Court

and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

7. For the aforesaid reasons, the Habeas Corpus Petition is allowed and the Detention Order passed by the Second Respondent in Memo No.256/BCDFGISSSV/2025 dated 15.05.2025, is hereby set aside. The detenu, viz., Madhan Kumar, S/o.Mahadevan, aged 35 years, who is now confined in the Central Prison, Puzhal, Chennai, 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.,)
17.09.2025

Index: Yes / No
Internet: Yes / No
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To:

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