

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-10-2025

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**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE S. SOUNTHAR**

HCP No. 1429 of 2025

1. Sathya

W/o. Late ThImmarayan, No.25/1,V.T.
Govindhasamy Street, Vakkanampatti,
Jolarpet, Tirupattur Taluk,
Tirupattur District.

Petitioner(s)

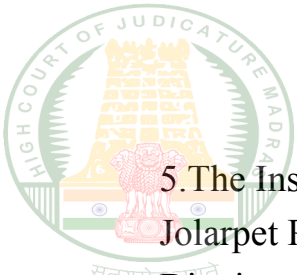
Vs

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

2.The District Collector and District
Magistrate
Tirupattur District, Tirupattur-635601.

3.The Superintendent Of Police
Tirupattur.

4.The Superintendent Of Prison,
Central Prison, Vellore.



5. The Inspector of Police
Jolarpet Police Station, Tirupattur
District.

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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 passed 2nd respondent dated 20.06.2025 in Detention order No.C3/D.O.No.18/2025 and quash the same consequently direct the respondents to set the detenu, Barath S/o. Late Thimmarayan 24 at liberty forthwith who is now confined in Central Prison, Vellore.

For Petitioner(s): Mr.T.Shanmugam

For Respondent(s): Mr.A.Gokulakrisnan,
Addl.Public Prosecutor

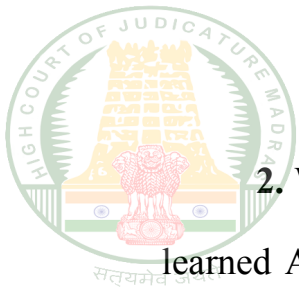
ORDER

J.NISHA BANU, J.

AND

S.SOUNTHAR, J.

The petitioner/mother of the detenu, viz., Barath, S/o Thimmarayan, aged 24 years, now confined at Central Prison, Vellore, has come forward with this petition challenging the detention order passed by the second respondent in C3/D.O.No.18/2025 dated 20.06.2025, 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. 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, in Volume II page Nos.46-50, this Court finds that in the similar case relied upon by the Detaining Authority, i.e., Cr.L.O.P.No.3150 of 2023, dated 13.02.2023, 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 the deceased and only due to sudden provocation, they have acted so. But in the present case, the detenu, alleged to have committed murder due to previous enmity. He went to the place of occurrence with deadly weapons along with other accused and alleged to have assaulted the deceased. However, the detaining authority took into consideration the said order passed



in Crl.O.P.No.3150/2023 and came to the conclusion that there is very likely 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. 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.”

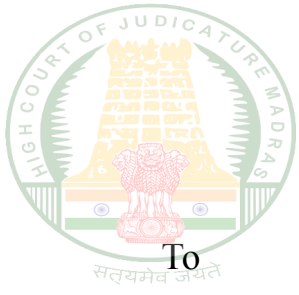
7. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

8. Accordingly, the detention order passed by the second respondent in C3/D.O.No.18/2025 dated 20.06.2025 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., **Barath, S/o. Thimmarayan**, aged 24 years, detained at **Central Prison, Vellore**, 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

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To

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6. The Public Prosecutor,
High Court, Chennai.



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