



WEB COPY



HCP No.1438 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR  
AND  
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

HCP No.1438 of 2025

Vasanthi  
W/o.Sridhar,  
No.80, Shanmugam Pillai Street,  
Mylapore, Chennai - 600004.

Petitioner(s)

Vs

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

2.The Commissioner of Police  
Greater Chennai.

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

4.The Inspector of Police, (Law and Order)  
E-1, Mylapore Police Station,  
Chennai.

Respondent(s)



HCP No.1438 of 2025

WEB COPY

Habeas Corpus 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 second respondent dated 21.06.2025 in No.392/BCDFGISSSV/2025 against the petitioner's son viz. Bharathwaj, male, aged 25 years, S/o.Sridhar, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner(s): S.Senthilvel

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

**ORDER**

(made by N.Sathish Kumar, J.)

The petitioner, who is the mother of the detenu Bharathwaj, male, aged 25 years, S/o.Sridhar, has come forward with this petition challenging the detention order passed by the second respondent dated 21.06.2025 bearing reference No.392/BCDFGISSSV/2025 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act,



1982 [Tamil Nadu Act 14 of 1982].

WEB COPY

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds have been raised by the petitioner in the habeas corpus petition assailing the detention order, in the hearing, learned counsel for the petitioner confined his argument only with regard to non-application of mind on the part of the detaining authority in arriving at the subjective satisfaction regarding imminent possibility of detenu being enlarged on bail while passing the impugned order of detention.

4. The learned counsel for the petitioner submitted that the detenu was arrested and remanded to judicial custody in connection with the ground case and two adverse cases. The detenu has moved a petition in CrI.M.P.No.4838 of 2025 for bail and the same was dismissed on 05.06.2025. Again, the detenu has moved a petition in CrI.M.P.No.5178 of 2025 for bail and the same was dismissed on 13.06.2025. At present, no bail petition is pending against the petitioner in respect of the ground case and therefore, there is no real possibility of the detenu coming out on bail in the



near future. However, the detaining authority while passing the impugned detention order arrived at the subjective satisfaction regarding imminent possibility of coming out on bail by relying on a bail order in Crl.O.P.No.25228 of 2024.

5. *Per contra*, the learned Additional Public Prosecutor while reiterating the averments in the counter affidavit submits that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

6. Considering the submissions made by both sides, this Court is of the considered view that there is non application of mind on the part of the detaining authority while passing the impugned order. Admittedly, in the ground case and two adverse cases, no bail application is pending against the detainee now. If that be so, the subjective satisfaction arrived at by the detaining authority that there is real possibility of his coming out on bail would be mere *ipse dixit* and that would vitiate the order of detention. It is a trite law that when no bail application is pending, it is only a logical conclusion that there is no likelihood of the person in custody would be



HCP No.1438 of 2025

released on bail. There are no materials available to show that a bail application is being moved, on behalf of the detenu, either by his relatives or by any other person, to take him out on bail. Thus, there is no real possibility of the detenu coming out on bail. Therefore, the conclusion of the detaining authority that there is a possibility of the detenu coming out on bail shows his non application of mind while passing the detention order. In such view of the matter, the impugned detention order is liable to be quashed.

In the result, this Habeas Corpus Petition is allowed and the detention order passed by the second respondent dated 21.06.2025 in No.392/BCDFGISSSV/2025 is hereby set aside. The detenu Bharathwaj, male, aged 25 years, S/o.Sridhar, is directed to be set at liberty forthwith unless he is required in connection with any other case.

**(N.S.K., J.) (M.J.R., J.)**

**25-10-2025**

nsd  
Index:Yes/No  
Speaking/Non-speaking order  
Internet:Yes  
Neutral Citation:Yes/No



HCP No.1438 of 2025

WEB COPY

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

2.The Commissioner of Police  
Greater Chennai.

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

4.The Inspector of Police, (Law and Order)  
E-1, Mylapore Police Station,  
Chennai.

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

6.The Joint Secretary to Government,  
Public (Law and Order),  
Fort St.George, Chennai – 9.



WEB COPY



HCP No.1438 of 2025

**N.SATHISH KUMAR, J.**  
and  
**M.JOTHIRAMAN, J.**

nsd

HCP No.1438 of 2025

25.10.2025