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HCP No. 1514 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. 1514 of 2025

1. K.Maheshwaran
S/o.Kamatchi, Residing at No.126,
West Street, Usilampatti,
Meikkilarpatti, Madurai-625532.

Petitioner(s)

Vs

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

2.The Commissioner of Police
Greater Chennai, Office of the
Commissioner of Police, Vepery,
Chennai-600007.

3.The Superintendent of Police
Central Prison, Puzhal,
Chennai-600066



4.The Inspector of Police
Prohibition Enforcement Wing,
Triplicane Unit, 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 in connection with the order of detention passed by the 2nd respondent in No.308/BCDFGISSSV/2025 dated 04/06/2025 Against the detenu Kameswaran, male aged about 28 years S/o.Kamatchi, 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): Mr. S.Prabhudoss

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

ORDER

J.NISHA BANU, J.

AND

S.SOUNTHAR, J.

The petitioner, who is the brother of the detenu, viz., G.Kameswaran, aged 28 years, S/o Kamatchi, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in BCDFGISSSV No.308/2025 dated 04.06.2025, branding him as "Drug Offender" 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 this petition, the learned counsel for the petitioner focused mainly on the ground that the Special Report of the Sponsoring Authority is not dated. Hence, the learned counsel raised a *bona fide* doubt as to the date on which the Special Report was sent by the Sponsoring Authority to the Detaining Authority. The learned counsel further pointed out that, unless the Special Report of 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 these undated documents, would vitiate the Detention Order.

4. The learned Additional Public Prosecutor would also fairly submit that the special report of the Sponsoring Authority is not dated.

5. It is seen from records that in Page No. 50 of the Volume – I, the Special Report of the Sponsoring Authority is not dated. When the Special



Report of the Sponsoring Authority is not dated, the veracity of the Report becomes doubtful. The compelling necessity to detain the detenu would also depend on when the Sponsoring Authority has sent his Report. Hence, this Court is of the view that the subjective satisfaction arrived at by the Detaining Authority based on such undated materials, 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



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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.”

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 Habeas Corpus Petition is **allowed** and the detention order passed by the second respondent in BCDFGISSSV No.308/2025 dated 04.06.2025 is hereby set aside. The detenu, viz., **Kameswaran**, aged 28 years, **S/o Kamatchi**, 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.NISHA BANU J.) (S.SOUNTHAR J.)

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