



H.C.P.No.1449 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-09-2025

CORAM:

THE HONOURABLE MRS. JUSTICE **J. NISHA BANU**

AND

THE HONOURABLE MR. JUSTICE **S. SOUNTHAR**

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Suresh,
S/o Subramani

..Petitioner

Vs.

1. State of Tamil Nadu,
Rep. By the Principal Chief Secretary to the Government,
Home Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
2. The Commissioner of Police,
Tambaram City, Office of Commissioner of Police,
Sholinganallur,
Chennai – 600 119.
3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
4. The Inspector of Police,
T-22, Medavakkam Police Station,
Chennai.

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus, to call for the records of the detention order passed by the second respondent in BCDFGISSSV No.54/2025 dated 21.05.2025 against the petitioner's son



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and set aside the same and to produce the detenu, S.Ebinesar @ Ebi, aged 21 years, S/o Suresh, who is detained in Central Prison, Puzhal, Chennai before this Court and set him at liberty

For Petitioner : Mr.N.Arun Kumar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

J.Nisha Banu,J.
and
S.Sounthar,J

The petitioner is the father of the detenu, viz., S.Ebinesar @ Ebi, aged 21 years, S/o Suresh, who is confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent in BCDFGISSSV 54/2025 dated 21.05.2025, 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] read with the order issued by the Government in G.O.(D).No.105 Home Prohibition and Excise (XVI) Department dated 11.04.2025 under sub section (2) of section 3 of the said Act.



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WEB COPY 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 furnished to the detenu is not dated. Hence, it is submitted that the detenu was deprived of making effective representation and it would vitiate the detention order.

4. It is seen from records that at Vol-I page 167, there is no date in the special report furnished to the detenu. The compelling necessity to detain the detenu would also depend on when the special report was obtained. In the absence of the date, the compelling necessity to detain, becomes questionable. 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.



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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 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



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sustain the detention order and has to be ignored.

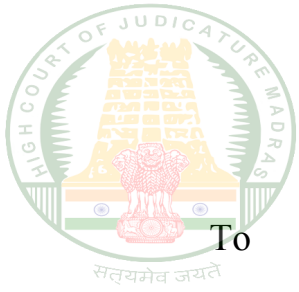
11. In our opinion, the detention order in question only contains ipse dixit regarding the alleged imminent possibility of the accused coming out on bail and there was no reliable material to this effect. Hence, the detention order in question cannot be sustained.”

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. Accordingly, the Habeas Corpus Petition is allowed and the detention order passed by the second respondent respondent in BCDFGISSSV No.54/2025 dated 21.05.2025 is hereby set aside. The detenu, viz., S.Ebinesar @ Ebi, aged 21 years, S/o Suresh, 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.)
19.09.2025

vsi



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To

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5. The Public Prosecutor,
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