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HCP No.1490 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.1490 of 2025

Palaiyam
W/o.Ettiyappan,
No.440, Aiyiyasamy Street,
Pudupettai, Chennai - 600 100.

Petitioner(s)

Vs

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

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Prison,
Special Prison for Women-Puzhal,
Chennai District.

4.The Inspector of Police,
F-2, Egmore Police Station,
Chennai.

Respondent(s)



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Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order in No.385/BCDFGISSSV/2025 dated 20.06.2025 on the file of the second respondent and quash the same and direct the respondents to produce the body and person of the petitioner's daughter viz. Sathiyaveni @ Bommukutti, D/o.Ettiyappan, (wrongly mentioned as wife), aged about 44 years, now confined at Special Prison for Women, Puzhal, before this Court and set her at liberty.

For Petitioner(s): Mr.P.Muthamizhselvakumar

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

ORDER

(made by N.Sathish Kumar, J.)

The petitioner, who is the mother of the detainee Sathiyaveni @ Bommukutti, D/o.Ettiyappan, aged about 44 years, has come forward with this petition challenging the detention order passed by the second respondent dated 20.06.2025 bearing reference No.385/BCDFGISSSV/2025 slapped on her daughter, branding her as "Drug Offender" 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].

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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 detainee being enlarged on bail while passing the impugned order of detention.

4. The learned counsel for the petitioner submitted that the detainee was arrested and remanded to judicial custody in connection with the ground case and she has moved a bail application with respect to the ground case and the same was dismissed. 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 CrI.M.P.No.5272 of 2023 wherein statutory bail was granted to one Sanjaykumar @ Sanjay S/o.Saravan @ Body Saravanan.



5. In this regard, the learned counsel drew the attention this Court to the order in CrI.M.P.No.5272 of 2023, which is enclosed at Page No.70 of Volume II of the booklet. A careful perusal of the said order, brings to light that it is a case of statutory bail under Section 167(2) of Cr.P.C. Therefore, taking a default bail order as a basis for arriving at subjective satisfaction regarding the imminent possibility of detainee being enlarged on bail shows clear non-application of mind. Therefore, the impugned preventive detention order deserves to be dislodged.

6. *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.

7. 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. 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



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order passed by the second respondent dated 20.06.2025 in

No.385/BCDFGISSSV/2025 is hereby set aside. The detenue Sathiyaveni @

Bommukutti, D/o.Ettiyappan, aged about 44 years, is directed to be set at

liberty forthwith unless she 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

To

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

2. The Commissioner of Police,
Greater Chennai.

3. The Superintendent of Prison,
Special Prison for Women-Puzhal, Chennai District.

4. The Inspector of Police,
F-2, Egmore 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.



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

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