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H.C.P.No.1509 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2025

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

H.C.P.No.1509 of 2025

J.Swetha

... Petitioner/Detenue's Wife

-VS-

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

2. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai.

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

4. The Inspector of Police,
F4 Thousand Lights Police Station,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the order of detention passed by the second respondent in his proceedings in No.457/BCDFGISSSV/2025 dated 07.07.2025 and quash the same as illegal and produce the detenue namely Joseph @ Josephraj S/o.Arumugam aged



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27 years DRUGOFFENDER now he is confined in central prison puzhal II chennai before this honourable court and set him at liberty.

For Petitioner : Mr.C.Raja
For Respondents : Mr.A.Gokulakrishnan
Addl. Public Prosecutor

ORDER

The petitioner herein, who is the wife of the detenue, namely, Josephraj S/o.Arumugam aged 27 years, detained at Central Prison, Puzhal, Chennai, has come forward with this petition, challenging the detention order dated 07.07.2025, passed by the second respondent in No.457/BCDFGISSSV/2025, branding him as a "Drug Offender", as contemplated under Section 2(e) of 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. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.



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3. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detainee coming out on bail, by relying upon the bail order dated 27.07.2023, granted to the accused in a similar case in CrI.M.P.No.5272 of 2023, suffers from non-application of mind.

4. In paragraph No.4 (iv) of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detainee coming out on bail in the ground case, since, in a similar case, bail was granted to the accused therein and relied upon an order passed by this Court in CrI.M.P.No.5272 of 2023 in respect of Crime No.78 of 2024 on the file of P-3, Vyasarpadi Police Station, Chennai. According to the petitioner, the accused therein was released on statutory bail, which cannot be taken as a precedent for the detainee in respect of the imminent possibility of coming out on bail and therefore, the subjective satisfaction of the Detaining Authority, regarding the possibility of the detainee coming out on bail suffers from non-application of mind, which vitiates the detention order.



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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. In the instant case, the Detaining Authority has arrived at the subjective satisfaction that the detainee is likely to be released on bail by referring to a bail order granted to an accused in a similar case in Cr.M.P.No.1358 of 2023. However, the said bail was granted on the ground that the investigation has been completed and not on merits and therefore, the subjective satisfaction of the Detaining Authority that the detainee is likely to be released on bail suffers from non-application of mind. Hence, on the above grounds, the Detention Order 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,



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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 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. For the aforesaid reasons, this Habeas Corpus Petition is allowed and the Detention Order passed by the SECOND RESPONDENT in No.457/BCDFGISSSV/2025 dated 07.07.2025, is hereby set aside. The detinue, viz., Josephraj S/o.Arumugam aged 27 years, who is now confined in the Central Prison, Puzhal, Chennai is hereby directed to



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be set at liberty forthwith unless his presence is required in connection with any other case.

(N.S.K,J.,) (M.J.R,J.,)
30.10.2025

Index: Yes / No

Internet: Yes / No

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To:

1. The Additional Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police,
Chennai.
3. The Superintendent of Police,
Central Prison, Puzhal, Chennai.
4. The Inspector of Police,
F4 Thousand Lights Police Station,
Chennai.
6. The Joint Secretary to Government
Public (Law & Order),
Fort St.George, Chennai-600 009.
7. The Public Prosecutor,
High Court, Madras.

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