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HCP No. 1506 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-10-2025

CORAM

**THE HONOURABLE MRS JUSTICE J. NISHA BANU
AND
THE HONOURABLE MR.JUSTICE S. SOUNTHAR**

HCP No. 1506 of 2025

1. SRINIVASAN

S/o. Krishnan, No.24, Kallankuthur
Street, Eluvampadi, Thiruvannamalai-
606 803

Petitioner(s)

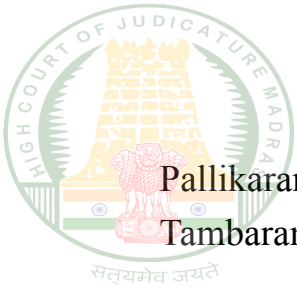
Vs

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

2.The Commissioner of Police
Tambaram City.

3.The Suprerintendent of Prison,
Central Prison, Puzhal, Chennai-600
066

4.The Inspector of Police



Pallikaranai PEW Police Station,
Tambaram City - PEW District.

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Respondent(s)

PRAYER

To issue a WRIT OF HABEAS CORPUS or any other Writ or Order in the nature of Writ call for the Records in Connection with the order of Detention passed by the Second Respondent dated 02.06.2025 in BCDFGISSSV No.65/2025 against Petitioner's Friend R.PREMKUMAR, Male aged 29 Years S/o. Ravi, Who is confined at Central Prison, Puzhal and set aside the same and direct the respondent to produce the detenu before this Hon'ble Court and set him liberty.

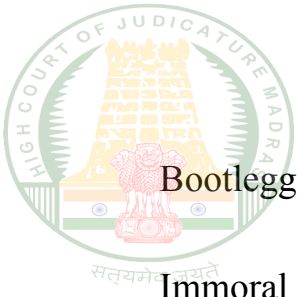
For Petitioner(s): A.Tamilselvan

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

ORDER

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

The petitioner is the friend of the detenu, viz., R.Premkumar, S/o Ravi aged 29 years, 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 No.65/2025 dated 02.06.2025, 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

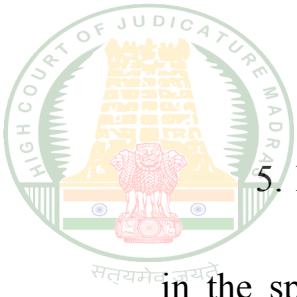
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and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982] read with the order issued by the Government in G.O.(D).No.105 Home Prohibition and Excise (XVI) Department dated 11.04.2025 under sub section (2) of section 3 of the said Act.

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. Learned Additional Public Prosecutor would also fairly states that the special report furnished to the detenu is not dated.



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5. It is seen from the records that at Vol-I page 151-153, 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 suspect. 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.

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:-



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“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 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 second in BCDFGISSSV No.65/2025

dated 02.06.2025 is hereby set aside. The detenu, viz., S.R.Premkumar, aged 29

years, S/o Ravi, 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.)

07-10-2025

vsi

To

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

2.The Commissioner of Police
Tambaram City.

3.The Suprerintendent of Prison,
Central Prison, Puzhal, Chennai-600
066

4.The Inspector of Police
Pallikaranai PEW Police Station,
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5. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.

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6. The Public Prosecutor,
High Court, Madras.



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