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H.C.P.No.1614 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

H.C.P.No.1614 of 2025

Mrs.Ellammal

... Petitioner/detenuue's mother

-VS-

1. The State of Tamil Nadu,
Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Chennai - 600 009.

2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

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

4. Inspector of Police,
R-3, Ashok Nagar Police Station,
Ashok Nagar, Chennai-600 083.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the proceedings of the 2nd Respondent herein in 427/BCDFGISSSV/25 dated 01/07/2025,



H.C.P.No.1614 of 2025

quash the same and produce the detenue Gajendran, S/o.Kumar now detained at Central Prison, Puzhal, Chennai before this Honble Court and set him at liberty.

For Petitioner : Mr.G.Mohana Krishnan

For Respondents : Mr.A.Gokulakrishnan
Addl. Public Prosecutor

ORDER

(By J.Nisha Banu,J.)

The petitioner herein, who is the mother of the detenue, namely Gajendran, S/o.Kumar, aged 32 years, detained at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order dated dated 01.07.2025, passed by the second respondent in 427/BCDFGISSSV/25, 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



H.C.P.No.1614 of 2025

Additional Public Prosecutor appearing for the respondents.

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3. Though several grounds are raised in this petition, the learned counsel for the petitioner focused mainly on the ground that the subjective satisfaction of the Detaining Authority that the a relative of the detainee is taking steps to take out the detainee on bail, suffers from non-application of mind, as the statement under 180 (iii) of BNSS, said to have been made by the detainee's mother before the Sponsoring Authority, is undated. Hence, the learned counsel for the petitioner raised a *bona fide* doubt as to when this statement was obtained from the detainee's mother. The learned counsel further pointed out that, unless the statement relied upon by 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 this undated statement, would vitiate the Detention Order.

4. Learned Additional Public Prosecutor has not refuted the furnishing of undated 180(iii) statement to the detainee that was given by his mother.

5. It is seen from records that the statement obtained by the

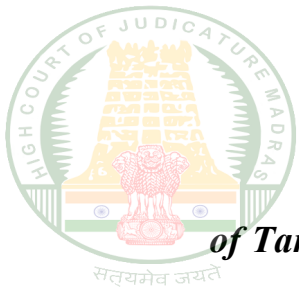


H.C.P.No.1614 of 2025

WEB COPY Sponsoring Authority from the detainee's mother, enclosed in the Booklet at Pg.No.123 of Vol.I stating that she is planning to file a bail application to

bring out the detainee on bail, is not dated. On a perusal of the Grounds of Detention, it is seen that, in Para No.3, the Detaining Authority has observed that the Sponsoring Authority has stated that he came to understand that the relative of the detainee is taking steps to take him out on bail by filing bail application before the appropriate Court and has arrived at the subjective satisfaction that the detainee is likely to be released on bail. When the statement obtained by the Sponsoring Authority from the mother of the detainee stating that she is planning to file bail application to bring out the detainee on bail is not dated, the veracity of such statement becomes doubtful. The compelling necessity to detain the detainee would also depend on when the statement was obtained. In the absence of the date, the compelling necessity to detain, becomes suspicious. 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***



H.C.P.No.1614 of 2025

of Tamil Nadu through Secretary to Government and another' reported in
WEB CO'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 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



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H.C.P.No.1614 of 2025

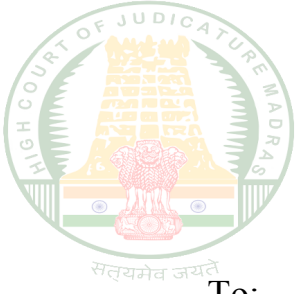
of the accused coming out on bail and there was no reliable material to this effect. Hence, the detention order in question cannot be sustained.”

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.

7. For the aforesaid reasons, the Habeas Corpus Petition is allowed and the Detention Order passed by the **SECOND RESPONDENT** in **427/BCDFGISSSV/25** dated **01.07.2025**, is hereby set aside. The detenue, viz., **Gajendaren** S/o.Kumar, aged 32 years, 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.N.B.J.) (S.S.J.)
09.10.2025

Index: Yes / No
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H.C.P.No.1614 of 2025

To:
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1. The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.
3. The Superintendent of Prison,
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4. The Inspector of Police,
R-3, Ashok Nagar Police Station,
Ashok Nagar, Chennai-600 083.
5. The Public Prosecutor,
High Court, Madras.



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