



WEB COPY

HCP No. 1694 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2025

CORAM

THE HONOURABLE MRS JUSTICE J. NISHA BANU

AND

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

H.C.P No. 1694 of 2025

1. Usha

W/o.Govinthasamy, No.5/174,
Nallathoorai Street, Koman Nagar,
Thaiyur, Kachipuram-603 103.

Petitioner(s)

Vs

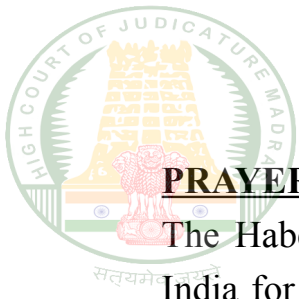
1. The Secretary To The Government,
Home, Prohibition and Excise
Department, Fort St.George,
Chennai-600 009.

2.The Commissioner Of Police,
Tambaram City, Tambaram, Chennai.

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

4.The Inspector Of Police,
T-19, Kelambakkam Police
Station,Chennai.

Respondent(s)

**PRAYER**

The Habeas Corpus Petition is filed under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus directing the respondents to produce the petitioners Son Mr.Vimal Raj @ Vimal, S/o.Govinthasamy, Male aged about 23 years and now confined at Central Prison-II, Puzhal, Chennai before this Court and set him at liberty forthwith by setting aside the order of Detention bearing BCDFGISSSV No.48/2025 dated 08.05.2025 on the file of the Second respondents.

For Petitioner(s): Mr.A.Thirumaran

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

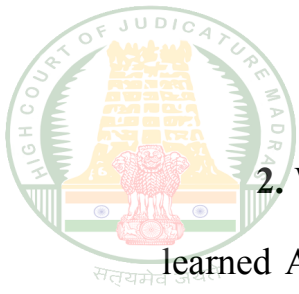
ORDER

J.NISHA BANU, J.

AND

S.SOUNTHAR, J.

The petitioner is the mother of the detainee, viz., G.Vimalraj @ Vimal, aged 23 years, S/o Govindasamy, 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.48/2025 dated 08.05.2025, 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].

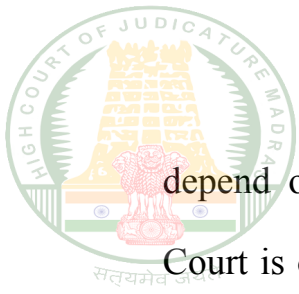


2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds are raised in this petition, the learned counsel for the petitioner focused mainly on the ground that the subjective satisfaction of the Detaining Authority that the relatives of the detenu are taking steps to take out the detenu on bail, suffers from non-application of mind, as the Special Report of the Sponsoring Authority is not dated. Hence, the learned counsel raised a *bona fide* doubt as to the date on which the Special Report was sent by the Sponsoring Authority to the Detaining Authority. The learned counsel further pointed out that, unless the Special Report of 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 these undated documents, would vitiate the Detention Order.

4. The learned Additional Public Prosecutor would also fairly submit that the special report of the Sponsoring Authority is not dated.

5. It is seen from records that in Page Nos. 123 to 125 of the Volume – I, the Special Report of the Sponsoring Authority is not dated. When the Special Report of the Sponsoring Authority is not dated, the veracity of the Report becomes doubtful. The compelling necessity to detain the detenu would also



depend on when the Sponsoring Authority has sent his Report. Hence, this Court is of the view that the subjective satisfaction arrived at by the Detaining Authority based on such undated materials, 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:-

“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



WEB COPY

HCP No. 1694 of 2025



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 in BCDFGISSSV No.48/2025 dated 08.05.2025 is hereby set aside. The detenu, viz., **Vimalraj @ Vimal**, aged 23 years, **S/o Govindasamy**, 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.)

06-10-2025

ASI



WEB COPY

- 1.The Secretary To The Government,
Home, Prohibition and Excise
Department, Fort St.George,
Chennai-600 009.
- 2.The Commissioner Of Police,
Tambaram City, Tambaram, Chennai.
- 3.The Superintendent Of Prison,
Central Prison-II, Puzhal,
Chennai-600 066.
- 4.The Inspector Of Police,
T-19, Kelambakkam Police Station,
Chennai.
5. The Public Prosecutor,
High Court of Madras, Chennai.



WEB COPY

HCP No. 1694 of 2025



**J.NISHA BANU J.
AND
S.SOUNTHAR J.**

ASI

H.C.P No. 1694 of 2025

06-10-2025