



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-10-2025

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

H.C.P No. 1789 of 2025

1. Kumar

S/o.Selvaraj, Kurinji Nagar Housing
Board, Narayanan Nagar,
Kitchipalayam, Salem.

Petitioner(s)

Vs

1. The State Rep By, The Secretary to
Government,
Home, Prohibition and Excise
Department, Fort St.George,
Chennai-600 009.

2.The Commissioner Of Police
Salem City.

3.The Superintendent Of Prison,
Central Prison, Salem.

4.The Inspector Of Police,
Kitchipalayam Police Station, Salem.

Respondent(s)

**PRAYER**

WEB C/P This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India to call for the records in C.M.P.No.26/Goonda/Salem City/2025 dated 09.06.2025 on the file of the Commissioner of Police, Salem City, the second respondent herein and quash the same as illegal and direct the respondent to produce the detenu Sarathi, S/o.Kumar, aged about 21 years, now confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner(s): Mr.S.Sengkodi

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

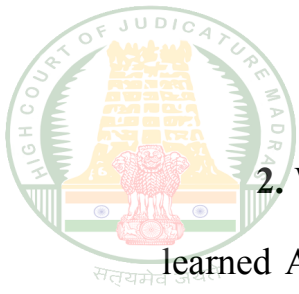
ORDER

J.NISHA BANU, J.

AND

S.SOUNTHAR, J.

The petitioner, who is the father of the detenu viz., Sarathi, S/o.Kumar, aged about 21 years, confined at Central Prison, Salem, has come forward with this petition challenging the detention order passed by the second respondent dated 09.06.2025 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].

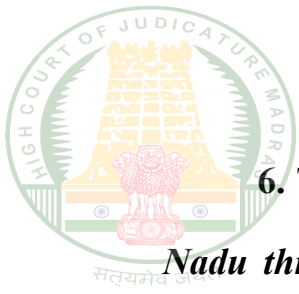


2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the bail order relied upon by the Detaining Authority in CrI.O.P.No.25959/2024 dated 21.10.2024 is not similar to the case on hand. Therefore, the learned counsel submitted that the Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail.

4. The learned Additional Public Prosecutor would also fairly state that the similar case relied upon by the detaining authority is not a similar one.

5. On a perusal of the Booklet, this Court finds that in Page Nos.13 to 15 of Volume-II, the case relied upon by the Detaining Authority in CrI.O.P.No.25959/2024 dated 21.10.2024 is not similar to the case on hand. The accused therein was granted bail mainly on the ground that there was no previous case, but in the present case, the detenu is having two previous cases. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority that the detenu is also likely to be released on bail, by relying upon the aforesaid similar case, suffers from non-application of mind.

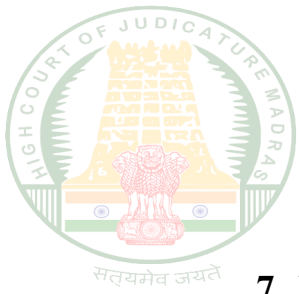


6. The Hon'ble Supreme Court, in the case of '**Rekha Vs. State of Tamil Nadu through Secretary to Government and another**' reported in '**2011 [5]**

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 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.”



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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 detention order passed by the second respondent in C.M.P.No.26/Goonda/Salem City/2025 dated 09.06.2025 is hereby set aside and the Habeas Corpus Petition is **allowed**. The detenu viz., **Sarathi, S/o. Kumar**, aged 21 years, detained at **Central Prison, Salem**, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

(J.NISHA BANU J.) (S.SOUNTHAR J.)

14-10-2025

ASI

To

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

2.The Commissioner Of Police
Salem City.

3.The Superintendent Of Prison,
Central Prison, Salem.



HCP No. 1789 of 2025



4. The Inspector Of Police,
Kitchipalayam Police Station, Salem.

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5. The Joint Secretary,
Law & Order Department, Secretariat, Chennai-9.

6. The Public Prosecutor,
High Court, Chennai.



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HCP No. 1789 of 2025



J.NISHA BANU, J.
AND
S.SOUNTHAR, J.

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