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HCP No.1889 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

HCP No.1889 of 2025

S.Saraswathi
W/o.Vinoth,
No.80, Deepar Nagar 7th Street, Vyasarpadi,
Chennai-600 039.

Petitioner(s)

Vs

- 1.The State Of Tamil Nadu represented by
the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner Of Police,
Greater, Chennai Police, Vepery, Chennai-600 007.
- 3.The Inspector Of Police,
F2, Egmore Police Station, Chennai.
- 4.The Superintendent of Prison,
Central Prison-II, (Men) Puzhal, Chennai.

Respondent(s)



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WEB COPY Habeas Corpus 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 detention order dated 20.06.2025 passed by the second respondent in No.381/BCDFGISSSV/2025 and direct the respondents herein to produce the petitioner's brother *viz.* Moses @ Saran, S/o.Saravanan, aged 21 years, male, who is presently undergoing detention in the Central Prison-II, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner(s): Mr.Sarathkumar

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

ORDER

(made by N.Sathish Kumar, J.)

The petitioner, who is the sister of the detenu Moses @ Saran, S/o.Saravanan, aged 21 years,, has come forward with this petition challenging the detention order passed by the second respondent dated 20.06.2025 bearing reference No.381/BCDFGISSSV/2025 slapped on her brother, branding him as "Drug Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders,



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Goondas, Immoral Traffic Offenders, Sand 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.

3. Though several grounds have been raised by the petitioner in the habeas corpus petition assailing the detention order, in the hearing, learned counsel for the petitioner confined his argument only with regard to non- application of mind on the part of the detaining authority in arriving at the subjective satisfaction regarding imminent possibility of detenu being enlarged on bail while passing the impugned order of detention.

4. The Learned counsel for the petitioner submitted that the detenu was arrested and remanded to judicial custody in connection with the ground case and he has moved a bail application and the same is pending. The detaining authority while passing the impugned detention order arrived at the subjective satisfaction regarding imminent possibility of coming out on bail by relying on a bail order in CrI.M.P.No.5272 of 2023 wherein statutory bail was granted to one Sanjaykumar @ Sanjay S/o.Saravan @



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Body Saravanan.

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5. In this regard, the learned counsel drew the attention this Court to the order in CrI.M.P.No.5272 of 2023, which is enclosed at Page No.47 of Volume I of the booklet. A careful perusal of the said order, brings to light that it is a case of statutory bail under Section 167(2) of Cr.P.C. Therefore, taking a default bail order as a basis for arriving at subjective satisfaction regarding the imminent possibility of detenu being enlarged on bail shows clear non-application of mind. Therefore, the impugned preventive detention order deserves to be dislodged.

In the result, this Habeas Corpus Petition is allowed and the detention order passed by the second respondent dated 20.06.2025 in No.381/BCDFGISSSV/2025 is hereby set aside. The detenu Moses @ Saran, S/o.Saravanan, aged 21 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

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

25-10-2025

nsd

Index: Yes/No

Speaking/Non-speaking order

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Internet: Yes

Neutral Citation: Yes/No

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner Of Police,
Greater, Chennai Police, Vepery, Chennai-600 007.
- 3.The Inspector Of Police,
F2, Egmore Police Station, Chennai.
- 4.The Superintendent of Prison,
Central Prison-II, (Men) Puzhal, Chennai.
- 5.The Public Prosecutor,
Madras High Court, Chennai.
- 6.The Joint Secretary to Government,
Public (Law and Order),
Fort St.George, Chennai – 9.



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N.SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

nsd

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