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HCP.No.2112 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.11.2025

CORAM

THE HONOURABLE **MR . JUSTICE N.SATHISH KUMAR**

AND

THE HONOURABLE **MR. JUSTICE M.JOTHIRAMAN**

H.C.P.No.2112 of 2025

R.Gayathri

... Petitioner/Wife of the detenue

Versus

1. The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Fort St.George
Chennai – 600 009

2. The Commissioner of Police
Avadi City.

3. The Superintendent of Prison
Central Prison, Puzhal, Chennai

4.The Inspector of Police
M-8, Sathangadu Police Station (Law and Order)
Chennai

.. Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records connected with the detention order passed in TNPD/APC/2025 No.110 of 2025 dated 23.07.2025 on the file of the 2nd respondent and to quash the same and direct the respondents to produce the petitioner's husband person named Thiru.Salamon @ Salu Male, aged 21 years, now confined in Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.R.Karthik



HCP.No.2112 of 2025

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

(Order of the Court was made by **N.SATHISH KUMAR, J.**)

The petitioner, who is the wife of the detenu Salamon @ Salu, male, aged about 21 years, has come forward with this petition challenging the detention order passed by the second respondent dated 23.07.2025 bearing TNPD/APC/2025 No.110 of 2025 dated 23.07.2025 slapped on her husband under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, 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 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 wife of the detenu is taking steps to take out the detenu on bail, suffers from non-application of mind, as the statement under 180 (iii) of BNSS, said to have been made by the detenu's



HCP.No.2112 of 2025

wife before the Sponsoring Authority, is not produced. Hence, the learned counsel for the petitioner raised a *bona fide* doubt as to when this statement was obtained from the detenu's wife. 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 that 180(iii) statement was not furnished to the detenu that is alleged to have been given by detenue's wife.

5. On a perusal of the Grounds of Detention, it is seen that, in Para No.4, the Detaining Authority has observed that the Sponsoring Authority has stated that he came to understand that the wife of the detenu 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 detenu is likely to be released on bail. When the statement obtained by the Sponsoring Authority from the wife of the detenu stating that she is planning to file bail application to bring out the detenu on bail is not furnished, the veracity of



HCP.No.2112 of 2025

such statement becomes doubtful. The compelling necessity to detain the detenu would also depend on when the statement was obtained. In the absence of the such statement, 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 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



HCP.No.2112 of 2025

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. In the result, this Habeas Corpus Petition is allowed and the detention order passed by the 2nd respondent dated 23.07.2025 in TNPd/APC/2025 No.110 of 2025 dated 23.07.2025 is hereby set aside. The detenu viz., Salamon @ Salu, male, aged about 21 years is directed to be set at liberty forthwith unless he is required in connection with any other case.



HCP.No.2112 of 2025

[N.S.K.,J.] [M.J.R.,J.]

12.11.2025

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Index: Yes/No

Neutral Citation: Yes/No

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To

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Home, Prohibition and Excise Department
Secretariat, Fort St.George
Chennai – 600 009
2. The Commissioner of Police
Avadi City.
3. The Superintendent of Prison
Central Prison, Puzhal, Chennai
4. The Inspector of Police
M-8, Sathangadu Police Station (Law and Order)
Chennai
5. The Joint Secretary to Government
Public (Law & Order)
Fort Saint George, Chennai – 9
6. The Public Prosecutor
High Court, Madras.



WEB COPY



HCP.No.2112 of 2025

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