



H.C.P.(MD)No.538 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
09.10.2025	23.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

H.C.P.(MD)No.538 of 2025

Santha @ Santhakumari

... Petitioner / Mother of Detenu

VS.

1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 9.

2.The District Collector and District Magistrate,
Kanniyakumari District at Nagercoil,

3.The Superintendent of Central Prison,
Palayamkottai.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus, calling for the records relating to



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the detention order passed by the second respondent in P.D.No.02/2025, dated 22.01.2025, quash the same and direct the respondents to produce the detenu namely, Ratheesh, S/o.Rajan, aged about 27 years, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner

: Mr.D.Venkatesh

For Respondents

: Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

C.V.KARTHIKEYAN, J.

The petitioner is the mother of the detenu *viz.*, Ratheesh, aged about 27 years. The detenu has been detained by the second respondent in P.D.No.02/2025, dated 22.01.2025, holding him to be a 'Sexual Offender', as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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.



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3. The learned counsel for the petitioner pointed out that the detaining authority, in the grounds of detention, referred to a case registered by the All Women Police Station, Nagercoil, in Crime No.16 of 2024. In that case, the offences were initially registered under Section 96 of the Bharatiya Nyaya Sanhita (B.N.S.), 2023 and later altered to Sections 96 and 351(2) B.N.S., 2023, along with Sections 5(l) and 6 of the POCSO Act, 2012. It was noted that although the accused in that case had not filed a bail application, he was released on bail by the Special Court for Trial of Cases under the POCSO Act, Kanniyakumari. Based on that fact, the detaining authority had recorded a subjective satisfaction that if the detenu in the present case were to file a bail application, there was a real possibility of his release.

4. The learned counsel for the petitioner contended that in the present case, the detenu had not filed any bail application and that therefore there was no immediate likelihood of his release. It was therefore contended that the presumption by the detaining authority was speculative and unsustainable. In support of this contention, reliance was placed on the judgment of a Coordinate Division Bench of this Court in **A.Seenivasan vs. State of Tamil Nadu, rep. by**



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its Secretary, Home, Prohibition and Excise Department and others, reported in 2025 (2) MWN (Cr.) 410 (DB), wherein the Division Bench held as follows:-

"4.It is seen from records that the statement obtained by the Sponsoring Authority from the detenu's relative, enclosed in the Booklet, stating that they are planning to file a bail application to bring out the detenu on bail, no crime number has been mentioned. 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 relatives of the detenu are 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 Crime Number in the statement obtained by the Sponsoring Authority from the relatives of the detenu stating that they are planning to file bail application to bring out the detenu on bail is not mentioned, the veracity of 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 crime number, 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."



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5. The distinguishing factor in the case relied upon by the learned counsel for the petitioner (**A.Seenivasan v. State of Tamil Nadu**, *supra*) was that the crime number was not mentioned in the statement recorded under Section 161 Cr.P.C. of the relative of the detenu. On that basis, the Division Bench found that the veracity of such a statement became doubtful, thereby, casting suspicion on the necessity for detention. Consequently, the Division Bench of this Court held that the subjective satisfaction of the detaining authority, which was based on such undated and incomplete material, suffered from non-application of mind.

6. However, in the present case, a perusal of the records clearly shows that the F.I.R. in Crime No.32 of 2024 was specifically referenced on each page of the statements recorded during the course of investigation. The name of the Police Station is also mentioned. Therefore, we are unable to accept the contention that the detaining authority failed to arrive at a valid subjective satisfaction.

7. Furthermore, the question whether bail will be granted or not lies solely within the judicial discretion of the concerned Court, and it is not possible to pre-determine the outcome of such applications. Considering the gravity of the





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To

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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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PRE-DELIVERY ORDER MADE IN
H.C.P.(MD)No.538 of 2025

23.10.2025
(1/2)