



HCP(MD). No.673 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE Mr.JUSTICE R.VIJAYAKUMAR

HCP. (MD). No.673 of 2025

Angammal

... Petitioner

Vs

1. The State of Tamilnadu,
Rep By the Additional Chief Secretary to Government,
Home, Prohibition Xvi Dept,
Fort St.George, Chennai - 9..

2. The District Magistrate and District Collector,
Tiruppur District
Tiruppur District..

3. The Superintendent of Prison,
Central Prison, Trichy..

... Respondents

PRAYER :- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to call for the entire records, connected with the detention order of the 2nd respondent in Detention Order Cr.M.P.No. 12/Goonda/2025 dated 26.03.2025 and detained at Central Prison, Tiruchirappalli and quash the same and direct the respondents to produce the body or person of the petitioner's son namely Venkatesh, male aged



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about 25 years, son of late Kaliyaperumal and set him at liberty forthwith.

For Petitioner : Mr.B.Jameelarasu

For Respondents : Mr.A.Thiruvadikumar
Addl. Public Prosecutor

ORDER

(Order of the Court was made by C.V.KARTHIKEYAN, J.)

The petitioner is the mother of the detenu, Venkatesh, S/o.Kaliyaperumal, aged about 25 years. The detenu has been detained by the second respondent vide order dated 26.03.2025 in Cr.M.P.No. 12/Goonda/2025 holding him as a "Goonda", as contemplated under Section 2(f) 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.

3. The main ground raised by the learned counsel for the petitioner



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is with respect to the statement of the detaining authority that the detenu was involved in activities prejudicial to the maintenance of public order.

To substantiate that particular statement, the detaining authority had stated in paragraph No.4 of the detention order as follows:

“4.The case records which were produced before me by the Inspector of Police, Kunnathur Police Station requesting to detain Venkatesh under preventive detention under Tamil Nadu Act 14 of 1982 were considered by me carefully. It is ascertained that Venkatesh is a habitual offender involving in illegal activities by indulging in using filthy words in the public places, causing hurt and threaten to murder, murder, attempting murder, ganja selling, theft and indulging in robbery by going through two wheeler vehicle in the way of causing prejudicial to the maintenance of public order since 2012. As he has involved in the activities prejudicial to the maintenance of public order by committing all the above said offences,”

4. The learned counsel for the petitioner had relied on the judgment of the Hon'ble Supreme Court reported in **(2020) 13 SCC 632 *Khaja Bilal Ahmed v. State of Telangana and others***, specifically referring to paragraph 23, wherein, the Hon'ble Supreme Court, while examining the statement of the detaining authority about the antecedents,



and the criminal history and in the detention order had recorded that the detenu was a rowdy sheet, had held as follows:

“The detaining authority stated that the cases which were registered against the appellant between 2009 and 2016 “are not at all considered for passing the detention order” and were “referred by way of his criminal background only”. This averment is plainly contradictory. The order of detention does, as a matter of fact, refer to the criminal cases which were instituted between 2007 and 2016. In order to overcome the objection that these cases are stale and do not provide a live link with the order of detention, it was contended that they were not relied on but were referred to only to indicate the antecedent background of the detenu. If the pending cases were not considered for passing the order of detention, it defies logic as to why they were referred to in the first place in the order of detention...”

5. It had been further held as follows:

“The order of detention may refer to the previous criminal antecedents only if they have a direct nexus or link with the immediate need to detain an individual. If the previous criminal activities of the appellant could indicate his tendency or inclination to act in a manner prejudicial to the maintenance of public order, then it may have a bearing on the subjective satisfaction of the detaining authority. However, in



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the absence of a clear indication of a causal connection, a mere reference to the pending criminal cases cannot account for the requirements of [Section 3](#). It is not open to the detaining authority to simply refer to stale incidents and hold them as the basis of an order of detention. Such stale material will have no bearing on the probability of the detenu engaging in prejudicial activities in the future.”

6. The learned counsel further pointed out that this dictum laid down by the Hon'ble Supreme Court had been subsequently followed by a three Judges Bench of the Hon'ble Supreme Court in the judgment reported in **2025 SCC online SC 367 [Nenavath Bujji etc. v. State of Telangana and others]**, wherein, after extracting Paragraph No.23 in entirety, the Hon'ble Supreme Court had given the summary of findings in Paragraph No.43 and we would reduce point numbers 1,5,6 and 9, which are as follows:

(i) The Detaining Authority should take into consideration only relevant and vital material to arrive at the requisite subjective satisfaction,

...

(v) While making a detention order, the authority should arrive at a proper satisfaction which should be reflected clearly, and in categorical terms, in the order of detention,



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(vi) *The satisfaction cannot be inferred by mere statement in the order that “it was necessary to prevent the detenu from acting in a manner prejudicial to the maintenance of public order”. Rather the detaining authority will have to justify the detention order from the material that existed before him and the process of considering the said material should be reflected in the order of detention while expressing its satisfaction,*

...

(ix) *To arrive at a proper satisfaction warranting an order of preventive detention, the detaining authority must, first examine the material adduced against the prospective detenu to satisfy itself whether his conduct or antecedent(s) reflect that he has been acting in a manner prejudicial to the maintenance of public order and, second, if the aforesaid satisfaction is arrived at, it must further consider whether it is likely that the said person would act in a manner prejudicial to the public order in near future unless he is prevented from doing so by passing an order of detention . For passing a detention order based on subjective satisfaction, the answer of the aforesaid aspects and points must be against the prospective detenu. The absence of application of mind to the pertinent and proximate material and vital matters would show lack of statutory satisfaction on the part of the detaining authority.”*



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7. It is therefore contended that the order of detention had been passed on materials, which have no direct or live link with the necessity to pass orders and the offence had been committed, which necessitated passing of the detention order.

8. The learned Additional Public Prosecutor however argued that the detaining authority had actually mentioned about the previous cases in the detention order, but did not use them to arrive at a subjective satisfaction. However, the dictum of the Hon'ble Supreme Court is very clear that unless the materials are relevant to the passing of the detention order, they need not be mentioned as materials, which are used to come to a subjective satisfaction by the detaining authority and as a matter of fact, the Hon'ble Supreme Court had stated that stating those materials and claiming that they were not considered to arrive at a subjective satisfaction shows that there was a contradiction in the detention order itself.

7. In view of these facts, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.12/Goonda/2025 dated



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26.03.2025 passed by the second respondent is set aside and the detenu Venkatesh, S/o. Kaliyaperumal, aged 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[C.V.K,J]

[R.V,J]

04.11.2025

NCC : Yes/No

Index : Yes/No

RR

To

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3. The Superintendent of Prison,
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4.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.



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