



WEB COPY

HCP No. 1930 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 1930 of 2025

Sujatha
W/o.Sekar,
No.152, Sivaji Nagar, 8th Street,
Tondairpet,
Chennai-600 081.

..Petitioner(s)

Vs

1. The Additional Chief Secretary to the
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Commissioner Of Police,
Commissioner Office of Chennai Police, Egmore,
Greater Chennai.
3. The Superintendent,
Central Prison Puzhal-II,
Chennai.
4. The Inspector Of Police,
H-6, R.K.Nagar Police Station,
Chennai.

..Respondent(s)



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Prayer: Habeas Corpus Petition filed under Article 226 of Constitution of India for issuance of a writ, order or direction and in more particularly writ in the nature of a Writ of Habeas Corpus, calling for the entire records connected with the order of the 2nd respondent herein in 580/BBCDEFGISSSV/2025 dated 21.08.2025 against the petitioner son, Karthick @ Pongal Karthick aged 21 years, confined at Central Prison, Puzhal-II, Chennai and set aside the same consequently directing the respondents herein to produce the body and person of the detenu before this Hon'ble Court and set him at liberty forthwith.

For Petitioner(s): Mr.K.Tamilvanan

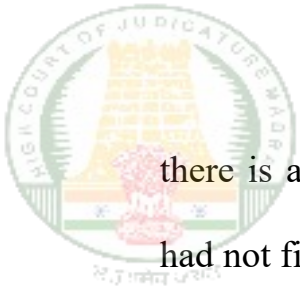
For Respondent(s): Mr. R. Muniyapparaj
Additional Public Prosecutor
Assisted By
Mr. M. Sylvester John

ORDER

(Order of the Court was made by Sunder Mohan J.)

The mother of the detenu-Karthick @ Pongal Karthick, branded as 'Goonda' under Section 2(f) of the Tamil Nadu Act 14 of 1982, has filed this petition challenging the detention order dated 21.08.2025.

2.Learned counsel for the petitioner would submit that the impugned order is liable to be set aside on the sole ground that the detaining authority had relied upon an irrelevant material to arrive at the subjective satisfaction that



there is a real possibility of the detenu coming out on bail, though the detenu had not filed any bail application.

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3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

4. We find from the grounds of detention that the detaining authority had stated that the relatives are taking steps to file a bail application, though the detenu had not moved any bail application till the date of detention. The detaining authority has relied upon the statement said to have been recorded under Section 180(3) of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNSS') by the sponsoring authority.

5. Though the statement under Section 180(3) of the BNSS need not be signed, we are of the view that such a statement cannot be used to infer the possibility of the detenu coming out on bail. The sponsoring authority ought to have obtained signature in the statement of the relative to satisfy the detaining authority that the relatives are taking steps to file bail application. Therefore the subjective satisfaction of the detaining authority as regards the real possibility of the detenu coming out on bail is vitiated.

6. We have, in fact, taken a similar view in our order dated 03.03.2026 in HCP Nos. 2129, 2179 and 2340 of 2025 and the relevant paragraphs are extracted below:



8. *On the first question whether bail applications have been filed at all, we have perused the booklets that contain the avowed statements of M.Pitchaiammal at page 147, Nagomi at page 146 and Mohan at page 148 of the booklet.*

9. *According to the petitioners, there are three flaws in the statements recorded. Firstly, they are unsigned, secondly, they are undated and thirdly, the crime number mentioned therein is incorrect, insofar as the crime number mentioned is 332 of 2025, whereas the crime number in the ground case in all three cases is 378 of 2025.*

10. *Having considered the rival contentions, we agree with the petitioners that the statements relied upon by the respondents do not support their case. Firstly, the statements are indeed unsigned and undated. There is hence absolutely no clarity, much less certainty, as to when they were recorded.*

11. *The description of the statements on the top of the page refers to Section 180(3) of the BNSS which corresponds to Section 161 of the Criminal Procedure Code, 1973. A statement under Section 161 is recorded in the course of investigation and the provisions of Section 162 stipulate that such a statement is not expected to be signed. That may be so. However, since in the present cases, the respondents seek to draw the benefit of those statements, it is necessary for the statements to have been signed in order to support the conclusion that Pitchaiammal, Nagomi, and Mohan are taking steps to obtain bail in the cases of the respective detenus. In the absence of a signature, these statements cannot be relied upon for this purpose.*

12.

13. *We hence eschew the statements in toto for the purposes of the present cases. As a sequitur, subjective satisfaction of the Sponsoring Authority that M.Pitchaiammal, Nagomi and Mohan are taking steps to obtain bail, based on the above statements stands vitiated and the argument of the petitioners on this count is accepted.*

7. In light of the aforesaid discussion, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent in No.580/BBCDEFGISSSV/2025 dated 21.08.2025 is set aside.



8. The detenu, viz., Karthick @ Pongal Karthick, S/o.Sekar, male aged 21 years, who is now confined in Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

(A.S.M.,J.) (S.M.,J.)
06-04-2026

sl

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Note: Issue Today

To

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



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DR.ANITA SUMANTH J.

AND

SUNDER MOHAN J.

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