



WEB COPY

HCP No. 2109 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 2109 of 2025

Rathika

..Petitioner(s)

Vs

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Chengalpet District,
Chengalpet.
3. The Superintendent of Police
Chengalpet District.
4. The Superintendent, Central Prison
Puzhal.
5. The Inspector of Police,
Maduranthagam Police Station,
Chengalpet District.

..Respondent(s)

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in CPT No.15/2025 dated 16.09.2025 in detain the detenu under 2(e) of Tamil Nadu Act 14 of 1982, as a Drug Offender and quash the same and direct the respondent to produce the detenu Siva @ Sivanesan, S/o. Srinivasan aged about 32 years, who is detained at Central Prison, Puzhal before this Court and set him at liberty.



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For Petitioner(s):

Mr.G.Nirmal Krishnan

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 wife of the detenu – Siva @ Sivanesan, S/o. Srinivasan aged 32 years, has filed this petition challenging the detention order dated 16.09.2025, branding him as ‘Drug Offender’ under Section 2(e) of the Tamil Nadu Preventive Detention Act, 1982 (Act 14/1982).

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

3. Though several grounds have been raised, we are of the view that the detention order is liable to be quashed on the ground that the satisfaction of the detaining authority as regards the real possibility of the detenu coming out on bail suffers from non-application of mind.

4. In the grounds of detention, the detaining authority has stated that the detenu had not filed any bail application and that his wife (the petitioner herein)



has given a statement u/s 180(3) of BNSS, 2023 on 05.09.2025, that due to family circumstances, she is not in a position to file a bail petition on behalf of her husband and that in due course of time, she will try to file a bail petition before the appropriate Court.

5. Firstly, we find from the said statement, which is furnished at page no.109 of the booklet, that the petitioner had not stated about her family circumstances. Secondly, the petitioner had not made any reference to the ground case and her intention to take the detenu out on bail in the said case. Thirdly, the said statement is neither dated nor signed. We have in HCP No. 1684 of 2025, dated 01.04.2026, held that, the unsigned statement cannot be relied upon to infer that the detenu is likely to file bail application.

6.For the above three reasons, the statement is of no value and ought not to have been the basis for the detaining authority to conclude that the detenu is likely to file a bail application and that there is a real possibility of the detenu coming out on bail.

7.Consequently, the inference that the detention is warranted since the detenu is likely to indulge in further criminal activities after his release on bail also is without basis. Hence, the detention order is liable to be quashed.



8. In light of the above discussion, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent in Detention Order CPT No.15/2025, dated 16.09.2025 is set aside.

9. The detenu, viz., Siva @ Sivanesan, S/o. Srinivasan aged 32 years, 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.)
29-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

Note: Issue order today.

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Chengalpet District,
Chengalpet.
3. The Superintendent of Police
Chengalpet District.
4. The Superintendent, Central Prison
Puzhal.



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5. The Inspector of Police,
Maduranthagam Police Station,
Chengalpet District.
6. The Public Prosecutor,
Madras High Court.
7. 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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