



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 2378 of 2025

Sumathi
W/o.Chinnapaiyan,
No.6/5, Devendrar Street,
Athipalaganur, Kattanachempatti,
Rasipuram, Namakkal.

..Petitioner(s)

Vs

1. The Additional Chief Secretary To Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George,
Chennai-600 009.
2. The District Magistrate And District Collector,
Namakkal,
Namakkal District.
3. The Superintendent Of Police,
Namakkal,
Namakkal District.
4. The Superintendent Of Prison,
Central Prison - Salem,
Salem District.
5. State rep. By its
Inspector Of Police,
All Women Police Station,
Rasipuram,
Namakkal District.



..Respondent(s)

Prayer: Habeas corpus petition filed under Article 226 of Constitution of India for issuance of a Writ of Habeas Corpus or any other appropriate writ, order or direction, in the nature of a Writ of Habeas Corpus to call for the entire records, relating to the petitioners son detention under Tamil Nadu Act vide detention order, dated 01.07.2025 on the file of the second respondent herein made in proceedings in C.M.P.No.63/Sexual Offender/2025/(M1), quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Manimalai, S/o.Chinnapaiyan, aged 30 years before this Hon'ble High Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Salem.

For Petitioner(s): Mr.D.Akash Kumar
For Mr.W.Camyles Gandhi

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

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

We have heard Mr.D.Akash Kumar, learned counsel for Mr.W.Camyles Gandhi, learned counsel for the petitioner and Mr.R.Muniapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned counsel for the respondents.

2. The challenge is to order of detention dated 01.07.2025 under which Manimalai, S/o.Chinnapaiyan has been branded as Sexual Offender under



Section 2(ggg) of the Tamil Nadu Act 14 of 1982 (in short 'Act'). His mother has approached this Court seeking quash of the order.

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3. Learned counsel for the petitioner assails the impugned order on various grounds. He would submit that one of the grounds on which the detention order has been passed is the apprehension of the detaining authority that the detenu would be enlarged on bail. For this purpose, the detaining authority has relied upon an order passed in Cr.M.P.No.1629 of 2023 in Spl.S.C.No.53 of 2023 dated 05.10.2023, wherein bail was granted.

4. We have perused order dated 05.10.2023, which is placed at page 10 of the booklet. It is true that offences in that case too are under the Pocso Act. To be noted, that in the present case also, relating to Crime No.14 of 2025, the offences are under Section 137 of the Bharatiya Nyaya Sanhita 2023 (BNSS) and Section 5 (k) read with Section 6(1) of the Protection of Children from Sexual Offences Act, 2012. A copy of the statement of the victim produced before us also indicates that the victim has deposed that there was penetrative sexual assault.

5. Notwithstanding that the offences in both cases, the present case as well as in the case relied upon, are under the Pocso Act, we find that the reason why bail had been granted in that matter was since the Special Public Prosecutor had not objected to the same. That situation does not arise in the present case and hence, the two cases are not comparable.



6. We hence find that the subjective satisfaction of the detaining authority that the detenu will be enlarged on bail has no basis and hence the reliance upon order dated 05.10.2023 passed in Cr.M.P.No.1629 of 2023 in Spl.S.C.No.53 of 2023 is misconceived and misplaced.

7. In light of the aforesaid discussion, this Habeas Corpus Petition is allowed and the Detention Order passed by the two respondent in C.M.P.No.63/Sexual Offender/2025/(M1) dated 01.07.2025 is set aside.

8. The detenu, viz., Manimalai, S/o.Chinnapaiyan, male aged 30 years, who is now confined in Central Prison, Salem, 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.)

09-04-2026

sl

Index: Yes/No

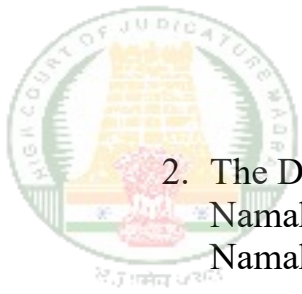
Speaking order

Neutral Citation: Yes

Note to Registry: Issue Today.

To

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



2. The District Magistrate And District Collector,
Namakkal,
Namakkal District.
3. The Superintendent Of Police,
Namakkal,
Namakkal District.
4. The Superintendent Of Prison,
Central Prison - Salem,
Salem District.
5. The Inspector Of Police,
All Women Police Station,
Rasipuram,
Namakkal District.
6. The Public Prosecutor,
High Court of Madras.
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.

SL

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