



WEB COPY

HCP No. 2451 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

HCP No. 2451 of 2025

Seetha

..Petitioner(s)

Vs

1. The State rep by:
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison
Central Prison, Salem.
4. The Inspector of Police,
All Women Police Station,
Salem Town, Salem.

..Respondent(s)

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Habeas Corpus, calling for the records in C.M.P.No.78/Sexual Offender/Salem City/2025 dated 30.10.2025 on the file of the Commissioner of Police, Salem City, the second respondent herein and quash the same as illegal and direct the respondent to produce the detenu Sakthivel, S/o. Ramasamy, aged about 32 years, now confined at Central Prison, Salem, before this Court and set him at liberty.



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For Petitioner(s):

Mr. Bhuvaneshwar for
Mr.S.Prabhakar

For Respondent(s):

Mr.C.R. Malarvannan,
Counsel for Government of Tamil Nadu
(Criminal Side)

ORDER

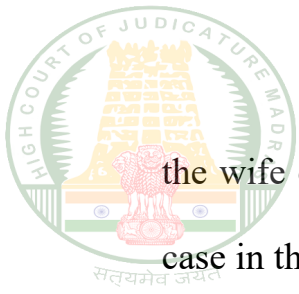
(Order of the Court was made by Sunder Mohan J.)

The wife of the detenu – Sakthivel, S/o.Ramasamy, aged 32 years, has filed this petition challenging the detention order dated 30.10.2025, branding him as ‘Sexual Offender’ under Section 2(ggg) of the Tamil Nadu Preventive Detention Act, 1982 (Act 14/1982).

2. Heard the learned counsel for the petitioner and the learned counsel for the Government of Tamil Nadu (Criminal Side) 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. The detaining authority has relied upon a statement said to have been made by the wife of the detenu, under Section 180(3) of the BNSS that she is taking steps to file a bail application. However, we find that in the statement of



the wife of the detenu there is no reference to the crime number of the ground case in the said statement.

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5. On 03.03.2026, in HCP Nos. 2129, 2179 and 2340 of 2025, we had held that the unsigned statement cannot be relied upon to infer that the detenu is likely to file bail application. We had reiterated and clarified this view in a subsequent case, i.e., HCP No.2356 of 2025 dated 22.06.2026, after we were informed that our view was held to be *per incuriam* by a Co-ordinate Bench of this Court in HCP (MD) N0.369 of 2026 dated 19.06.2026. We have held that only a signed statement of a relative can be relied upon by the detaining authority to satisfy himself as regards the possibility of the detenu filing a bail application and that a Section 180(3) of BNSS statement cannot be the basis for such a satisfaction.

6. Therefore, the reliance placed on the said statement recorded under Section 180(3) of BNSS, by the detaining authority to arrive at the satisfaction that there is a real possibility of the detenu coming out on bail is misconceived. Thus, the inference that the detention is warranted since the detenu is likely to indulge in further criminal activities after his release on bail is based on the said wrong premise. Hence, the detention order is liable to be quashed.



7. In light of the aforesaid discussion, this Habeas Corpus Petition is allowed and the Detention Order passed by the second respondent in C.M.P.No.78/Sexual Offender/Salem City/2025 dated 30.10.2025, is set aside.

8. The detenu, viz., Sakthivel, S/o.Ramasamy, aged 32 years, who is now confined in Central Prison, Salem, is hereby 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.)
29-06-2026

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

TSG

Note: Issue order copy today.

To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison
Central Prison, Salem.
4. The Inspector of Police,
All Women Police Station,
Salem Town, Salem.



5. The Joint Secretary,
Law and Order Department,
Secretariat,
Chennai – 600 009.

6. The Public Prosecutor,
High Court of Madras.

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**DR.ANITA SUMANTH, J.
AND
SUNDER MOHAN, J.**

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