



HCP(MD)No.1374 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2026

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**THE HON'BLE MR JUSTICE N. ANAND VENKATESH  
AND  
THE HON'BLE MR JUSTICE P.DHANABAL**

H.C.P.(MD)No.1374 of 2025

Karishma Kapoor

... Petitioner

Vs

1. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department  
Fort St. George, Chennai – 9..

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

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

4.The Inspector of Police,  
District Crime Branch  
Thanjavur District

... Respondents

PRAYER :-Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records relating to the detention order passed by the 2<sup>nd</sup> respondent on 07.10.2025 in Detention Order in PD No.50/2025 under the Tamil Nadu Act 14 of 1982 as Goonda and detained



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the detenu at Central Prison, Trichy and quash the same and direct the respondents to produce the body or person of the detenu, Sai Sudhahar @ Sudhahar S/o.Muthaiyan aged about 41 years, before this court and set him at liberty now detained at Central Prison, Tiruchirappalli.

For Petitioner : M/s.M.Karunanithi

For Respondents : Mr.A.Thiruvadikumar  
Additional Public Prosecutor

### **ORDER**

(Order of the Court was made by N. ANAND VENKATESH, J.)

The petitioner is the wife of the detenu viz., Sai Sudhahar @ Sudhahar S/o.Muthaiyan aged about 41 years. The detenu has been detained by the second respondent by his order in PD No.50/2025 dated 07.10.2025 holding him to be a "Goonda", as contemplated under Section 2(f) of 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.



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3. Apart from the other grounds that were raised by the learned counsel for the petitioner, one of the main ground that was urged is that the detaining authority was aware of the fact that no bail petition was pending as on the date of passing of the detention order and the detaining authority took into consideration an order dated 24.05.2023 that was passed in CrI.O.P.(MD) No.9486/2023 by this Court and came to a conclusion that there was a real possibility of the detenu coming out on bail. The learned counsel submitted that the order that was relied upon by the detaining authority is not a similar case and hence, without any cogent materials such subjective satisfaction was arrived at which reflects non application of mind.

4. The learned Additional Public Prosecutor placed reliance upon the judgment of the Apex Court in ***Union of India through Joint Secretary (COFEPOSA), Ministry of Finance New Delhi v. Ankit Ashok Jalan*** reported in ***2020 (16) SCC 185*** and placed specific reliance upon Paragraph No.15 of the judgment, which is extracted hereunder:

“15.Now so far as the reliance placed upon the decisions of this Court in the cases of Rekha and [T.V. Sravanan](#) by the learned



counsel appearing on behalf of the detenus is concerned, at the outset, it is required to be noted that on the facts and circumstances of the case, narrated hereinabove, the aforesaid decisions shall not be of any assistance to the detenus and/or, as such, the same shall not be applicable to the facts of the case on hand. Even in the case of Rekha, the decision of the Constitution Bench of this Court in the case of [Rameshwar Shaw](#) was not placed before the Court for consideration and therefore this Court had no occasion to consider [the said decision](#). It is also required to be noted that even after considering the decision of this Court in the case of Rekha, which has been heavily relied upon by the learned counsel appearing on behalf of the detenus, in the case of [Dimpy Happy Dhakad](#), this Court has observed that even if a person is in judicial custody, he can be put on a preventive detention provided there must be an application of mind by the Detaining Authority that (i) the order of detention validly can be passed against a person in custody and for that purpose it is necessary that the grounds of detention must show whether the Detaining Authority was aware of the fact that the detenu was already in custody; (ii) that the Detaining Authority must be further satisfied that the detenu is likely to be released from custody and the nature of activities of the detenu indicate that if he is released, he is likely to indulge in such prejudicial activities and therefore, it is necessary to detain him in order to prevent him from engaging in such activities; and (iii) the satisfaction of the Detaining Authority that the detenu is already in custody and is likely to be released on bail and on being released, he is likely to indulge in the same prejudicial activities with the subjective satisfaction of the Detaining Authority.”



5. The learned Additional Public Prosecutor also placed reliance on the judgment of the Apex Court in ***Union of India and another v. Dimple Happy Dhakad*** reported in **2019 (20) SCC 609** and placed specific reliance upon Paragraph No.33 to 39 of the judgment, which is extracted hereunder:

“30. It is well settled that the order of detention can be validly passed against a person in custody and for that purpose, it is necessary that the grounds of detention must show that the detaining authority was aware of the fact that the detenu was already in custody. The detaining authority must be further satisfied that the detenu is likely to be released from custody and the nature of activities of the detenu indicate that if he is released, he is likely to indulge in such prejudicial activities and therefore, it is necessary to detain him in order to prevent him from engaging in such activities.

34. After reviewing all the decisions, the law on the point was enunciated in [Kamarunnisa v. Union of India and Another](#) (1991) 1 SCC 128 where the Supreme Court held as under:-

“13. From the catena of decisions [referred to above](#) it seems clear to us that even in the case of a person in custody a detention order can validly be passed (1) if the authority passing the order is aware of the fact that he is actually in custody; (2) if he has reason to believe on the basis of reliable material placed before him (a) that there is a real possibility of his being released on bail, and (b) that on being so released he would in all probability indulge in prejudicial activity and (3) if it is felt essential to detain him to prevent him from so doing. If the authority passes an order after recording his satisfaction in this behalf, such an order cannot be struck down on the ground that the proper course for the authority was to oppose the bail and if bail is granted notwithstanding such opposition, to



question it before a higher court. What this Court stated in the case of Ramesh Yadav (1985) 4 SCC 232 was that ordinarily a detention order should not be passed merely to pre-empt or circumvent enlargement on bail in cases which are essentially criminal in nature and can be dealt with under the ordinary law. It seems to us well settled that even in a case where a person is in custody, if the facts and circumstances of the case so demand, resort can be had to the law of preventive detention. ....”

35. The same principle was reiterated in [Union of India v. Paul Manickam and Another](#) (2003) 8 SCC 342 where the Supreme Court held as under:-

“14. .... Where detention orders are passed in relation to persons who are already in jail under some other laws, the detaining authorities should apply their mind and show their awareness in this regard in the grounds of detention, the chances of release of such persons on bail. The necessity of keeping such persons in detention under the preventive detention laws has to be clearly indicated. Subsisting custody of the detenu by itself does not invalidate an order of his preventive detention, and the decision in this regard must depend on the facts of the particular case. Preventive detention being necessary to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of public order or economic stability etc. ordinarily, it is not needed when the detenu is already in custody. The detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account while making the order. If the detaining authority is reasonably satisfied with cogent materials that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time, he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made. Where the detention order in respect of a person already in custody does not indicate that the detenu was likely to be released on bail, the order would be vitiated. (See [N. Meera Rani v. Govt. of T.N.](#) (1989) 4 SCC 418 and [Dharmendra Suganchand Chelawat v. Union of India](#) (1990) 1 SCC 746) The point was gone into detail in [Kamarunissa v. Union of India](#) (1991) 1 SCC 128. ....” [underlining added]



36. Whether a person in jail can be detained under the detention law has been the subject matter for consideration before this Court time and again. In [Huidrom Konungjao Singh v. State of Manipur and Others](#) (2012) 7 SCC 181, the Supreme Court referred to earlier decisions including [Dharmendra Suganchand Chelawat v. Union of India](#) (1990) 1 SCC 746 and reiterated that if the detaining authority is satisfied that taking into account the nature of the antecedent activities of the detenu, it is likely that after his release from custody he would indulge in prejudicial activities and it is necessary to detain him in order to prevent him from engaging in such activities.

37. In [Veeramani v. State of T.N.](#) (1994) 2 SCC 337 in para (6), the Supreme Court held as under:-

“6. From the catena of decisions of this Court it is clear that even in the case of a person in custody, a detention order can validly be passed if the authority passing the order is aware of the fact that he is actually in custody; if he has reason to believe on the basis of the reliable material that there is a possibility of his being released on bail and that on being so released, the detenu would in all probabilities indulge in prejudicial activities and if the authority passes an order after recording his satisfaction the same cannot be struck down.”

38. In the light of the well settled principles, we have to see, in the present case, whether there was awareness in the mind of the detaining authority that detenu is in custody and he had reason to believe that detenu is likely to be released on bail and if so released, he would continue to indulge in prejudicial activities. In the present



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case, the detention orders dated 17.05.2019 record the awareness of the detaining authority:- (i) that the detenu is in custody; (ii) that the bail application filed by the detenues have been rejected by the Court. Of course, in the detention orders, the detaining authority has not specifically recorded that the “detenu is likely to be released”. It cannot be said that the detaining authority has not applied its mind merely on the ground that in the detention orders, it is not expressly stated as to the “detenue’s likelihood of being released on bail” and “if so released, he is likely to indulge in the same prejudicial activities”. But the detaining authority has clearly recorded the antecedent of the detenues and its satisfaction that detenues Happy Dhakad and Nisar Aliyar have the high propensity to commit such offences in future.

39. The satisfaction of the detaining authority that the detenu is already in custody and he is likely to be released on bail and on being released, he is likely to indulge in the same prejudicial activities is the subjective satisfaction of the detaining authority. In [Senthamilselvi v. State of T.N. and Another](#) (2006) 5 SCC 676, the Supreme Court held that the satisfaction of the authority coming to the conclusion that there is likelihood of the detenu being released on bail is the “subjective satisfaction” based on the materials and normally the subjective satisfaction is not to be interfered with.”



6. The learned Additional Public Prosecutor also placed reliance upon the judgment in ***Alagu v. State of Tamil Nadu and others*** in CrI.A.No. 239/2026 dated 13.01.2026. Reliance was placed upon Paragraph 19 of the judgment, which is extracted hereunder:

*“19. In the present case, we find from the Grounds of detention that the bail prayer of the detenue had already been rejected by the Court of Session and there was no fresh bail application filed by the detenue. Further, there is nothing on record to indicate that co-accused of the case in which the appellant was under judicial custody was admitted to bail on the date the detention order was passed. Detaining authority 77 (2003) 8 SCC 342 88 See also [Kamarunnissa v. Union of India](#), (1991) 1 SCC 128 though, in the Grounds of detention referred to some other person being admitted to bail in some other case, did not disclose the facts of that case to demonstrate that it was so similar that a reasonable satisfaction could be drawn that detenue is likely to benefit from it and be released on bail. In such circumstances, having regard to the decisions of this Court considered above, in our view, there was no cogent material on record basis which the detaining authority could have drawn its satisfaction that the detenue was likely to be released on bail.”*

7. The learned Additional Public Prosecutor submitted that the judgment in ***Ankit Ashok Jalan*** case referred supra, made it clear that the



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earlier judgment in ***Rekha case (2011 (5) SCC 244)*** did not consider the judgment of the Constitution Bench in ***Rameshwar Shaw case (AIR 1984 SC 334)*** and therefore, test as provided in this judgment must be applied while testing the subjective satisfaction of the detaining authority regarding the likelihood of the detenu coming out on bail. It was therefore submitted that even in a case where no bail petition is filed and pending, if the detaining authority is able to come to a satisfaction that there is likelihood of the detenu being released on bail if a bail petition is moved, that sufficiently satisfies the requirement.

8. We have considered the rival submissions and perused the materials available on record.

9. In our considered view, we do not find any conflict between the judgment of the Apex Court in ***Ankit Ashok Jalan*** case and ***Alagu*** case. In ***Ankit Ashok Jalan*** case, the Apex Court held that the detaining authority must come to a subjective satisfaction that the detenu is likely to be released from custody and is likely to be released on bail and on being released, he is likely to indulge in the same prejudicial activities. When such a subjective



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satisfaction is arrived at, it has to be based on cogent materials. This is what has been insisted in *Alagu* judgment. When it comes to subjective satisfaction, the Court cannot go into the merits of the case and the Court can only test the subjective satisfaction by looking into the materials that were relied upon by the detaining authority and see if those are cogent materials, which are sufficient for the detaining authority to arrive at such subjective satisfaction.

10. If for instance in a given case, the detaining authority comes to a subjective satisfaction, on a material, which is not cogent and relies upon some order, which has no relevance to the case in hand, certainly, such subjective satisfaction will result in non application of mind. There must be some method of testing as to whether the subjective satisfaction arrived at by the detaining authority is valid and proper. The best way of testing the subjective satisfaction is to look at all the materials relied upon by the detaining authority. If those materials are cogent, the Court cannot go beyond those materials and deal with the merits of the case. On the other hand, if the materials are not cogent or it is irrelevant, certainly, the subjective satisfaction can be interfered. This is the common thread that



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runs through all the above judgments that were brought to our notice.

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11. Having clarified the legal position, this Court will now go into the facts of the present case.

12. In the case in hand, it was a solitary case based on an FIR that was registered in Crime No.444/2024. As per the FIR, there was only one complaint where the amount was received on the false promise to get a job abroad and the amount was not repaid back. In the course of investigation, the Investigating Officer was able to ascertain that there were around 230 persons, who were cheated by the accused persons to the tune of nearly Rs.13 crores. This material was available before the detaining authority at the time of passing the detention order.

13. The bail order that was relied upon by the detaining authority to arrive at a subjective satisfaction is an order that was passed in Crl.O.P. (MD) No.9486/2023 dated 24.05.2023. This Court has to see whether this order is a cogent material which could have lead the detaining authority to arrive at a subjective satisfaction.



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14. When the order was passed in CrI.O.P.(MD) No.9486/2023, what was taken into consideration was the fact that there was a single complaint that was made against the accused person on the ground that he had collected a sum of Rs.8 lakhs for obtaining a job abroad from the complainant. Neither the job was secured nor the amount was repaid. These facts were considered by this Court and this Court found that totally three accused persons were involved and the petitioner was A2 and he had suffered incarceration for nearly 18 days.

15. In the case in hand, even though the FIR was registered by one complainant for a single case, it turned out that nearly 230 persons were cheated. The order that was relied upon by the detaining authority by no stretch can be considered to be a similar case. In CrI.O.P.(MD) No. 9486/2023, there was a single complaint, which was considered by the Court, whereas, the detaining authority has dealt with a case where there were 230 similar complaints, which involved a total sum of Rs.13 Crore. If the detenu had moved a bail application, certainly, the Court would have considered the merits of the case based on the 230 complaints that were given to the tune of Rs.13 Crore. Obviously the consideration would have



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been very different and the same consideration that was made while passing the order in CrI.O.P.(MD) No.9486/2023 dated 24.05.2023 will not apply. Consequently the order passed in CrI.O.P.(MD) No.9486/2023 dated 24.05.2023 cannot be considered to be a similar case.

16. Thus, the order relied upon is not a cogent material for the detaining authority to arrive at a subjective satisfaction. Hence, there is non application of mind on the part of the detaining authority. Accordingly, the detention order is liable to be quashed.

17. In the result, the Habeas Corpus Petition is allowed and the order of detention in PD No.50/2025 dated 07.10.2025 passed by the second respondent is set aside. The detenu, viz., Sai Sudhahar @ Sudhahar S/o.Muthaiyan aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(N.A.V.,J.) (P.D.B.,J.)  
11.03.2026

Index : Yes  
Internet : Yes  
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To

1. The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department  
Fort St. George, Chennai – 9..

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

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

4. The Inspector of Police,  
District Crime Branch  
Thanjavur District

5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**N. ANAND VENKATESH,J.  
AND  
P.DHANABAL, J.**

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