



WEB COPY

HCP No. 436 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

HCP No. 436 of 2026

Sinivasan

..Petitioner(s)

Vs

1. State rep.by,
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison
Central Prison,
Salem.
4. The Inspector of Police
Pallapatty Police Station,
Salem.

..Respondent(s)

HCP No. 436 of 2026

Writ of Habeas Corpus filed under Article 226 of the Constitution of India to call for the records in C.M.P.No.9/Goonda/Salem City/2026, dated 09.01.2026, 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 Eswaran, Male, S/o.Srinivasan, aged about 25 years now



confined at Central Prison, Salem, before this Honble Court and set him at liberty.

WEB COPY

HCP No. 436 of 2026

For Petitioner(s): Mr.S.Sengkodi

For Respondent(s): Mr.M.Mohamed Riyaz
Government Advocate (Crl. Side)

ORDER

(Order of the Court was made by N.Sathish Kumar J.)

This Habeas Corpus Petition has been filed by one Sinivasan, father of the detenu namely Eswaran, Male, S/o.Srinivasan, aged about 25 years challenging the detention order passed by 2nd respondent in C.M.P.No.9/Goonda/Salem City/2026, dated 09.01.2026, branding the detenu as 'Goonda' as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.

2.We have heard the learned counsel for the petitioner and learned Government Advocate (Crl. Side) appearing for respondents. We have also perused the records submitted by the detaining authority.

3.Though several grounds have been raised by the petitioner in the habeas corpus petition assailing the detention order, in the hearing, learned counsel for



the petitioner confined his argument only with regard to non application of mind on the part of the detaining authority in passing the impugned order of detention.

4.Learned counsel for the petitioner submitted that the detenu has been remanded to judicial custody in connection with the ground case and three adverse cases. The detenu has not moved any bail application in respect of those cases and therefore, there is no real possibility of the detenu coming out on bail in the near future. However, the detaining authority after quoting that the detenu has not filed any bail application in those cases, but by relying on a case registered in Crime No.1318 of 2024 on the file of Veeranam Police Station for the offences under Sections 191(2), 191(3), 126, 127(2), 296(b) and 109(1) BNS, wherein, bail has been granted to one Murali, has come to the conclusion that there is a real possibility of the detenu coming out on bail. According to the learned counsel, in the said case, there is no reference as to the previous antecedents of the accused therein, however, in the present case, there are three adverse cases as against the detenu. Therefore, according to him, the similar case relied upon by the detaining authority for arriving at the subjective satisfaction that the detenu is likely to be released on bail, is in fact, not similar.

5.*Per contra*, learned Government Advocate (Crl. Side), while reiterating the averments in the counter affidavit, would submit that the order of detention



has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner.

WEB COPY

6. Heard the submissions made by both sides. On a perusal of the detention order, it is seen that, admittedly, in the ground case, no bail application has been filed either by the detenu or by his relatives so far. If that be so, the subjective satisfaction arrived at by the detaining authority that there is real possibility of his coming out on bail would be mere *ipse dixit* and that would vitiate the order of detention. It is a trite law that when no bail application is pending, it is only a logical conclusion that there is no likelihood of the person in custody would be released on bail. There are no materials available to show that a bail application is being moved, on behalf of the detenu, either by his relatives or by any other person, to take him out on bail. Thus, there is no real possibility of the detenu coming out on bail. Therefore, the conclusion of the detaining authority that there is a possibility of the detenu coming out on bail shows his non application of mind while passing the detention order.

7. Further, the case relied upon by the detaining authority as similar to the ground case relates to some other person and there is no reference to any previous antecedents of the accused therein, however, the detenu has three adverse cases. Therefore, it cannot be said that there is a likelihood of the



detenu coming out on bail based on the similar case relied upon by the detaining authority. On that ground also, this court is of the considered view that there is non application of mind on the part of the detaining authority while passing the impugned order.

8.In the result, the Habeas Corpus Petition is allowed and the detention order of the 2nd respondent in C.M.P.No.9/Goonda/Salem City/2026, dated 09.01.2026, is set aside. The detenu, Eswaran, Male, S/o.Srinivasan, aged about 25 years, is directed to be released forthwith unless his detention is required in connection with any other case.

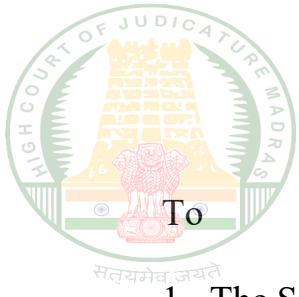
(N.S.K.,J.) (K.R.S.,J.)
11-08-2026

Note to Office :

Registry to communicate this order to Jail authorities in Central Prison, Salem, forthwith.

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

MKN



1. The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-9.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison
Central Prison,
Salem.
4. The Inspector of Police
Pallapatty Police Station,
Salem.
5. The Public Prosecutor,
High Court, Madras.



WEB COPY

HCP No. 436 of 2



**N.SATHISH KUMAR J.
AND
K.RAJASEKAR J.**

MKN

HCP No. 436 of 2026

11-08-2026