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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

AND

THE HON'BLE MR JUSTICE K.K.RAMAKRISHAN

H.C.P.(MD)No.369 of 2026

A.Krishnaveni

.. Petitioner / wife of the detenu

Vs.

1.The State of Tamil Nadu,
Rep by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat,
Chennai-600 009.

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

Prayer :Petition filed under Article 226 of the Constitution of India. to issue a writ of Habeas Corpus, to call for the entire records connected with the impugned detention order passed in M.H.S.Confdl.No.162/2025 dated



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24.12.2025 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu, namely, the petitioner's husband, i.e., Sudalaimuthu, aged about 26 years, s/o. Murugan, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.G.Karuppasamy Pandian,
Counsel for the State of
Tamil Nadu, (Criminal Side)

ORDER

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

The petitioner is the wife of the detenu, by name, Sudalaimuthu, aged about 26 years, s/o. Murugan. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.162/2025 dated 24.12.2025, holding him to be a "Goonda", as contemplated under Section 2(f) of the 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 counsel for the State of Tamil Nadu (Criminal Side) appearing for the respondents. We have also perused the records produced by the Detaining Authority.

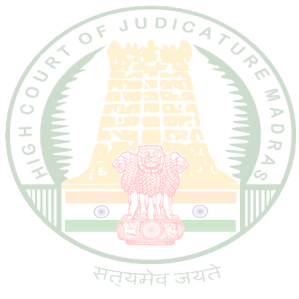


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3. Apart from the other grounds that were raised by the learned counsel appearing for the petitioner, two grounds were seriously canvassed before this Court.

4. The first ground is that there were two adverse cases and one ground case against the detenu and in none of these cases, bail petition was filed by the detenu. However, the Detaining Authority has taken into consideration a statement recorded from the wife of the detenu under Section 180(3) of BNSS Act to come to a conclusion that effective steps are being taken by the wife to file bail petitions in the adverse cases and the ground case. The learned counsel submitted that this statement available at Page No.65 of the first volume of the paper book is not signed by the detenu's wife and therefore, it cannot be relied upon. To substantiate his submission, the learned counsel relied upon the judgment passed by the Division Bench of this Court in HCP.Nos.2129, 2179 and 2340 of 2025 dated 03.03.2026 and the relevant portion relied upon by the learned counsel for the petitioner is extracted hereunder:

“11. The description of the statements on the top of the page refers to Section 180(3) of the BNSS which corresponds to Section 161 of the Criminal Procedure Code, 1973. A statement



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under Section 161 is recorded in the course of investigation and the provisions of Section 162 stipulate that such a statement is not expected to be signed. That may be so. However, since in the present cases, the respondents seek to draw the benefit of those statements, it is necessary for the statements to have been signed in order to support the conclusion that Pitchaiammal, Nagomi, and Mohan are taking steps to obtain bail in the cases of the respective detenus. In the absence of a signature, these statements cannot be relied upon for this purpose.”

5. The second ground that was urged is that the Detaining Authority after being aware of the fact that no bail petition has been filed either in the adverse cases or in the ground case, relied upon the order passed in CrI.M.P.No.374 of 2025 insofar as the first adverse case and ground case is concerned and in CrI.M.P.No.389 of 2025 insofar as the second adverse case is concerned and the order that was relied upon for the first adverse case and the ground case does not arise out of a similar case. Hence, the detention order suffers from non-application of mind.



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6. Per contra, the learned counsel for the State of Tamil Nadu (Criminal Side) submitted that Section 180(3) of BNSS Act is in *pari materia* to Section 161(3) of Cr.P.C., and such statements recorded by the Police in the course of investigation cannot be signed in view of the bar contained under Section 181 of BNSS which is in *pari materia* to Section 162 of Cr.P.C. The learned counsel submitted that this crucial factor has not been taken into consideration by the Division Bench in the order passed in HCP.Nos.2129, 2179 and 2340 of 2025 dated 03.03.2026.

7. Insofar as the second ground is concerned, the learned counsel submitted that the orders that were relied upon by the Detaining Authority to come to a subjective satisfaction that there is a likelihood of the detenu coming out on bail, arises out of similar cases and therefore, there is proper application of mind on the part of the Detaining Authority.

8. We have carefully considered the submissions made on either side and also the order passed in HCP.Nos.2129, 2179 and 2340 of 2025 dated 03.03.2026.



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9. We will proceed to deal with the first ground that has been urged before this Court. In the case in hand, the Detaining Authority was aware of the fact that the detenu had not moved any bail petition either in the adverse cases or in the ground case. However, the Detaining Authority has stated that effective steps are being taken to file bail petitions and in order to support this satisfaction arrived at by the Detaining Authority, the statement recorded from the wife of the detenu under Section 180(3) of BNSS has been relied upon and the same is available at Page No.65 of the first volume of the paper book.

10. The learned counsel for the petitioner relied upon the order passed in HCP.Nos.2129, 2179 and 2340 of 2025 dated 03.03.2026 and submitted that this statement cannot be acted upon without the same being signed by the wife of the detenu.

11. We have carefully gone through the order passed in HCP.Nos. 2129, 2179 and 2340 of 2025 dated 03.03.2026. The Division Bench of this Court, after taking into consideration the bar contained under Section 162 of Cr.P.C., which provides that such statement recorded under Section 161 of



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Cr.P.C., need not be signed, proceeded to hold that when such statements are relied upon while passing the detention order, it has to be necessarily signed failing which such statement cannot be relied upon by the Detaining Authority.

12. In our considered view, the above finding of the Division Bench is not in line with Sections 161 and 162 of Cr.P.C., / 180 and 181 of BNSS. The provisions of Cr.P.C., / BNSS makes it clear that the Police Officer may reduce into writing any statement made to him in the course of an investigation and such statement recorded by the Investigation Officer need not be signed by the person, who makes it. Thus, there is a bar provided under Section 162 of Cr.P.C., / 181 of BNSS. An exception cannot be carved out while dealing with a challenge to the detention order. The finding of the Division Bench at Paragraph No.11 of the order runs contrary to the statutory provision and therefore, it has to be necessarily held to be *per incuriam*.

13. We are inclined to deal with this issue based on the subjective satisfaction that has been arrived at by the Detaining Authority to come to a conclusion that steps are being taken to file bail petitions in two adverse



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cases and the ground case. At paragraph No.6 of the detention order, the Detaining Authority has only stated that there is a real possibility of the detenu coming out on bail in future by filing bail applications for the two adverse cases and the ground case. The Detaining Authority has not stated as to who is taking steps for filing applications in the adverse cases and in the ground case and the Detaining Authority has also not placed reliance upon the statement that was recorded from the wife of the detenu specifically in the detention order. Therefore, it has to be held that such satisfaction arrived at by the Detaining Authority is not supported by any reasons. Consequently, the first ground raised by the learned counsel appearing for the petitioner is sustained.

14. Insofar as the second ground is concerned, the Detaining Authority has relied upon the order passed in CrI.M.P.No.374 of 2025 to come to a conclusion that there is likelihood of the detenu coming out on bail in the first adverse case. Insofar as the second adverse case is concerned, the Detaining Authority has taken note of the order passed in CrI.M.P.No.389 of 2025 dated 10.06.2025 to arrive at the satisfaction that there is a likelihood of the detenu coming out on bail in the second adverse case.



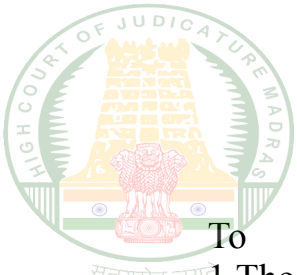
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15. On carefully going through the order passed in CrI.M.P.No.374 of 2025, it is seen that the Court had taken into consideration the fact that nobody sustained any injury in that case and the accused therein had already suffered incarceration for 59 days and investigation was almost complete. In the case in hand, the investigation was pending and therefore, the reliance placed by the Detaining Authority on the order passed in CrI.M.P.No.374 of 2025 suffers from non-application of mind, since it does not arise out of a similar case.

16. In the result, the Habeas Corpus Petition is allowed and the order of detention in M.H.S.Confdl.No.162/2025 dated 24.12.2025 passed by the second respondent is set aside. The detenu, viz., Sudalaimuthu, aged about 26 years, s/o. Murugan, is directed to be released forthwith unless his detention is required in connection with any other case.

(N.A.V.,J.) (K.K.R.K.,J.)
19.06.2026

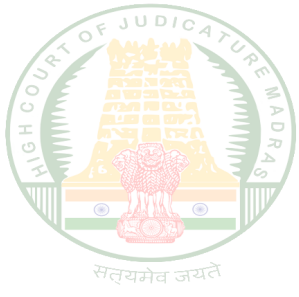
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To

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1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat,
Chennai-600 009.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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**N. ANAND VENKATESH,J.
AND
K.K.RAMAKRISHAN,J.**

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