



HCP.No.729/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.729/2023

Latha

..

Petitioner

Versus

- 1.The State of Tamil Nadu
rep.by its Additional Chief Secretary
to Government, Home Department
of Prohibition and Excise
Secretariat, Fort St George
Chennai 600 009.
- 2.The Commissioner of Police
Avadi City Police
Commissioner Office, Avadi
Chennai 600 054.
- 3.The Inspector of Police
M2 Madhavaram Milk Colony Police Station
Chennai.



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4.The Superintendent of Prison
Central Prison-II, Puzhal, Chennai.

.. Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus to call for the records in NO.96/BCDFGISSSV/2023 dated 12.04.2023 on the file of the 2nd respondent herein and set aside the same as illegal and produce the detenu Devendraprasath, son of Duraisamy, aged 26 years, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

(1)The petitioner, wife of the detenu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 12.04.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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(2) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

(3) Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority while stating that the detenu is likely to be released on bail in the adverse cases and in the ground case, by relying upon a similar case bail order, whose vernacular translation is defective, is vitiated.

(4) It is seen that in page No.124 of the Booklet furnished to the detenu, the English version of the similar case bail order granted by the learned Principal Sessions Judge, Chennai, in CrI.MP.1759/2018 dated 07.01.2014 relating to a case in Crime No.43/2018 registered by J4 Kotturpuram Police Station, has been furnished. However, the said bail order has been wrongly translated in the vernacular version on the subsequent page. The Detaining Authority, has referred to the said order in CrI.MP.No.1759/2018 as a similar case, to arrive at the subjective satisfaction that the detenu is likely to be released on bail. The detenu is involved in five adverse cases. The erroneous translation of the vital



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document in vernacular language would deprive the detenu of making effective representation to the authorities against the order of detention.

(5) We remind ourselves of Powanammal principle i.e., ratio in ***Powanammal Vs. State of Tamil Nadu*** reported in (1999) 2 SCC 413, wherein the Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. Paragraphs 6 and 16 {as in SCC journal} read as follows:

"6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

.....

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."

(6) Further, the facts in the present case is not similar to that of the case cited



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as a similar case. Thus, the detention order is vitiated on the ground of defective translation and also on the ground of non-application of mind and hence, the same is liable to be quashed.

(7)In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 12.04.2023 in NO.96/BCDFGISSSV/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Devendraprasath, son of Duraisamy, aged 26 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
09.10.2023

AP



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To

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to Government, State of Tamil Nadu
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S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

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