



WEB COPY



HCP.No.884/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.884/2023

Anbu

..

Petitioner

Versus

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. Georget, Chennai – 9.
- 2.The District Collector and District Magistrate
Cuddalore District, Cuddalore.
- 3.The Superintendent of Police,
Cuddalore, Cuddalore District.
- 4.The Superintendent of Prison,
Central Prison, Cuddalore District.
- 5.State rep.by The Inspector of Police,
Vridhachalam PEW Police Station,
Cuddalore District.

..

Respondents



HCP.No.884/2023

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records relating to the petitioners husband detention under Tamil nadu Act 14/1982 vide detentioin order dated 02.05.2023 on the file of the Second respondent herein made in proceedings Memo C3/D.O./10/2023 Quash the same as illegal and consequently direct the respondents herein to produce the petitioners husband namely SUDHAGAR S/o.Chandrael aged 39 years before this Honble High Court and set the petitioners husband at liberty from detention now the petitioners husband detained at Central Prison Cuddalore .

For Petitioner : Mr.R.Sasikumar
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 Sudhagar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 02.05.2023 slapped on her husband, branding him as "Bootlegger" 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



HCP.No.884/2023

Act 14 of 1982].

WEB COPY

(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 is vitiated. In paragraph No.8 of the Grounds of Detention, the Detaining Authority has stated that the detenu is likely to come out on bail based on a similar case relied on by him in Crime No.397/2021 for the offences u/s.4[1][aaa], 4[1-A][ii] of TNP Act, 1937, wherein bail was granted to an accused by the learned District and Sessions Judge, Cuddalore, in CrI.MP.No.4369/2021 on 12.07.2021. On a perusal of the said order, this Court finds that the said order was granted during lock down period and the circumstances for grant of bail in that particular case is entirely different during that period. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, is therefore, vitiated by non-application of mind.

(4) In view of the aforesaid reason, the detention order passed by the 2nd



HCP.No.884/2023

WEB COPY

respondent dated 02.05.2023 in No.C3/D.O/10/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sudhagar, S/o.Chandravel, aged 39 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
03.10.2023

AP

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. Georget, Chennai – 9.
- 2.The District Collector and District Magistrate
Cuddalore District, Cuddalore.
- 3.The Superintendent of Police,
Cuddalore, Cuddalore District.
- 4.The Superintendent of Prison,
Central Prison, Cuddalore District.
- 5.The Inspector of Police,
Vridhachalam PEW Police Station,
Cuddalore District.
- 6.The Public Prosecutor
High Court, Madras.

S.S.SUNDAR, J.,



WEB COPY



HCP.No.884/2023

AND

SUNDER MOHAN, J.,

AP

H.C.P.No.884/2023

03.10.2023