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HCP.No.1030/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1030/2023

Dharvis

Vs.

... Petitioner

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.District Collector and District Magistrate
of Tiruvannamalai District, Tiruvannamalai.
- 3.The Superintendent of Police
Tiruvannamalai District, Tiruvannamalai.
- 4.The Superintendent of Prison
Central Prison, Vellore-2.
- 5.The Inspector of Police
Tiruvannamalai East Police Station
Tiruvannamalai & District.

... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the 2nd respondent dated 25.05.2023 in D.O.No.51/2023 petitioner/detenu Dharvis, Male, aged 27 years S/o.Thoulath Basha, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	: Mr.M.Mohamed Saifulla for Mr.D.Balaji
For Respondents	: Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

[Order of the Court was made by S.S.SUNDAR, J]

(1)The petitioner, who is the detenu himself, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 25.05.2023 slapped on him, 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 regarding the possibility of the detenu coming out on bail suffers from non-application of mind.

(4) In paragraph No.5 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case since in a similar case, bail was granted to the accused therein by this Court in CrI.OP.No.290/2014 on 07.01.2014 for the case registered in Crime No.695/2013 for the offences u/s.323 and 302 of IPC and relied upon the said bail order passed in the similar case. On a perusal of the said order, this Court finds that the facts in the similar case are not similar to the facts of the present case. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail suffers from non-application of mind, which vitiates the detention order. Further, a few



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relevant paper in the Booklet furnished to the detenu is not legible and hence, the detenu was unable to make his effective representation.

(5) In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 25.05.2023 in D.O.No.51/2023-C2, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Dharvis, S/o.Thoulath Basha, aged 27, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
06.10.2023

AP

Internet : Yes

To

- 1.The Secretary to the Government
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009.
- 2.District Collector and District Magistrate
of Tiruvannamalai District, Tiruvannamalai.
- 3.The Superintendent of Police
Tiruvannamalai District, Tiruvannamalai.
- 4.The Superintendent of Prison
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- 5.The Inspector of Police
Tiruvannamalai East Police Station
Tiruvannamalai & District.
- 6.The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.,
and
SUNDER MOHAN, J.,

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