



WEB COPY



H.C.P.No.1080 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.1080 of 2023

Mrs.Kumari

W/o Durai

..

Petitioner

v.

1. The State of Tamil Nadu rep.

by its Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009

2. The Commissioner of Police

Greater Chennai
Vepery
Chennai 600 007

3. The Superintendent

Central Prison, Puzhal
Chennai

4. The Inspector of Police

H 8, Thiruvottiyur Police Station
Chennai

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Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records of the second respondent herein pertaining to the detention order made in BCDFGIISSSV.No.199/2023 dated 30.05.2023 and quash the same and direct the respondents to produce the body of the detenu namely Santhosh, aged about 22 years, now detained in Central Prison, Puzhal, Chennai before this Hon'ble Court and set the detenu at liberty forthwith.

For Petitioner :: Mr.V.Saravanan

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind, Advocate

ORDER

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

The petitioner, who is the mother of the detenu, namely, Santhosh, aged 22 years, S/o Durai, has come forward with this petition challenging the detention order passed by the second respondent dated 30.05.2023 slapped on her son, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,



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Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act,
1982 (Tamil Nadu Act 14 of 1982).

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

3. Though the petitioner has raised several grounds, learned counsel appearing for the petitioner pointed out before this Court that the bail order granted in similar case in Crl.M.P.No.10485 of 2021 due to Covid-19 pandemic situation was not properly considered by the detaining authority while passing the order of detention. Therefore, the subjective satisfaction arrived at by the detaining authority is irrational and the same vitiates the impugned order of detention for non-application of mind.

4. Since this Court has already held in several cases that the detention order is vitiated if there is no application of mind as to the real ground on which the bail was granted in similar case, in the case on hand, finding that the subjective satisfaction arrived at by the detaining authority is irrational,



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the detention order passed by the second respondent dated 30.05.2023 in No.199/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Santhosh, S/o Durai, aged 22 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

30.10.2023

ss

To

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High Court, Madras



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AND

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