



WEB COPY



H.C.P.No.1121 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.1121 of 2023

Mrs.Danabakkiyam Kalaiyarasan
W/o Kalaiyarasan

.. Petitioner

v.

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009

2. The Commissioner of Police
Salem City

3. The Superintendent of Prison
Central Prison, Salem

4. The Inspector of Police
Salem Town All Women Police Station
Salem District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Habeas Corpus, to call for the entire



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records leading to the detention of the petitioner's son namely Guna @ Gunasekaran, Male, aged about 30 years is presently lodged in Central Prison at Salem and has been detained under Act 14/82 as a “Goonda” vide detention order dated 30.05.2023 on the file of the 2nd respondent herein made in C.M.P.No.51/Goonda/Salem City/2023, quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from the Central Prison, Salem.

For Petitioner :: Mr.E.C.Ramesh

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, Guna @ Gunasekaran, aged 30 years, S/o Kalaiyarasan, 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



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Offenders, 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 several grounds are raised in the petition, the learned counsel for the petitioner confined his argument to the sole ground that the subjective satisfaction of the detaining authority is irrational, as the accused in similar case was released on bail based on the representation of the Public Prosecutor to the effect that bail can be granted if the accused is directed to stay away.

4. We also find that the case relied upon by the detaining authority in the impugned order is not similar to the case on hand, as bail was granted to the accused therein only on recording the statement of the learned Public Prosecutor to the effect that bail can be granted on condition that the accused should stay away. In such circumstances and on the admitted facts,



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this Court is of the view that the subjective satisfaction of the detaining authority suffers from non-application of mind. Therefore, the detention order is liable to be quashed.

5. In view of the aforesaid reason, the detention order passed by the second respondent dated 30.05.2023 in C.M.P.No.51/Goonda/Salem City/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Guna @ Gunasekaran S/o Kalaiyarasan, aged 30 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
30.10.2023

SS

To

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Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009



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2. The Commissioner of Police
Salem City

3. The Superintendent of Prison
Central Prison, Salem

4. The Inspector of Police
Salem Town All Women Police Station
Salem District

5. The Public Prosecutor
High Court, Madras



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AND

SUNDER MOHAN,J.

SS

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