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H.C.P.No.1214 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1214 of 2023

D.Dilip Kumar

... Petitioner

Vs.

- 1.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Tambaram City, (Goondas Section)
Sholinganallur, Chennai.
- 3.The Superintendent of Police,
O/o. Central Prison,
Puzhal, Chennai.
- 4.The Inspector of Police,
O/o. the Inspector of Police,
T-12, Selaiyur Police Station,
Chennai.

... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus calling for the records in BCDFGISSSV/24/2023 on the file of the second respondent, quash the detention order dated 31.05.2023 and direct the respondent to produce of detenu D.Martin, Son of Domenic Joseph detained at the Central Prison, Puzhal under the Tamil Nadu Act 14 of 1982 before this Court and set him at liberty.

For Petitioner	:	Mr.P.K.Ganesh
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor assisted by Mr.C.Aravind

ORDER

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

The petitioner, who is the brother of the detenu, namely, D.Martin, aged 24 years, S/o.Domenic Joseph, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 31.05.2023 slapped on his brother, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug



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Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand
Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14
of 1982].

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

3.Though several grounds are raised in this petition, the learned
counsel for the petitioner pointed out that the Detaining Authority has not
applied his mind while expressing his subjective satisfaction that the detenu
is also likely to be released on bail. It is his submission that the order
passed in similar case, namely, CrI.M.P.No.5200 of 2021, dated 20.10.2021,
is not a similar case, as the bail was granted in favour of the accused therein
only by referring to Covid-19 and the fact that the accused was already in
jail for 34 days.

4.On a perusal of the order passed in the similar case relied upon by
the Detaining Authority, in CrI.M.P.No.5200 of 2021, dated 20.10.2021, it is



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seen that the accused therein was released on bail mainly by citing Covid-19. Therefore, this Court finds that the subjective satisfaction of the Detaining Authority is irrational and the detention order is liable to quashed on the ground of non-application of mind.

5.In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 31.05.2023 in BCDFGISSSV No.24/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., D.Martin, aged 24 years, S/o.Domenic Joseph, is directed to be set at liberty forthwith unless he is required in connection with any other case.

(S.S.S.R., J.) (S.M., J.)
17.10.2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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- 5.The Public Prosecutor,
High Court, Madras.



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