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HCP.No.1389/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1389/2023

panchavarnam

Versus

.. Petitioner

1.The Additional Chief Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The District Magistrate & District Collector
Collectorate, Namakkal District.

3.The Superintendent of Police
O/o.The Superintendent of Police
Namakkal District.

4.The Superintendent of Prison
Central Prison, Salem,
Salem 636 007.

5.The Inspector of Police
Rasipuram Police Station,
Namakkal 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 entire records connected with the detention order of the 2nd respondent in CMP.No.05/Goonda/2023/[M1] dated 01.05.2023 and quash the same and direct the respondents to produce the body and person of detenu namely Ganesan @ Shanmugam, s/o.[late] Raj, aged about 40 years detained in Central Prison, Salem, before this Court and set him at liberty forthwith.

For Petitioner : Mr.B.M.Santharam
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 Ganesan @ Shanmugam, aged 40 years, S/o.Raj, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 01.05.2023 slapped on her son, 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].
- (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 the petition, the learned counsel for



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the petitioner submitted that the bail order in the similar case relied on by the Detaining Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail, was obtained where the learned Public Prosecutor had not objected for grant of bail to the accused therein.

(4) On a perusal of the Grounds of Detention, it is seen that the Detaining Authority had relied upon the order of bail passed in a similar case in Crl.MP.No.585/2021 by the learned Judicial Magistrate No.3, Tiruppur, to arrive at the subjective satisfaction that the detenu is likely to be released on bail. However, bail was granted to the accused in the similar case in Crl.MP.No.585/2021 as there was no objection on the side of the prosecution to release the accused therein on bail. It is also admitted that there are eight adverse cases against the detenu herein and therefore, it is not likely that the detenu will also be released on bail. It is in the said circumstances, this Court finds that the subjective satisfaction arrived at by the Detaining Authority suffers from non-application of mind. Hence, on the above ground, the Detention Order is liable to be quashed.

(5) In view of the aforesaid reasons, the detention order passed by the 2nd



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respondent dated 01.05.2023 in CMP.No.05/Goonda/2023/[M1] is hereby set aside and the Habeas Corpus Petition is allowed. The detenu 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.]
18.10.2023

AP
To

- 1.The Additional Chief Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.
- 2.The District Collector & District Magistrate
O/o.The District Collector & District Magistrate
Nagapattinam District.
- 3.The Superintendent of Police
Nagapattinam District.
- 4.The Superintendent of Prison
Central Prison, Trichirappalli.
- 5.The Inspector of Police
Velipalayam Police Station,
Nagapattinam District.
- 6.The Public Prosecutor
High Court, Madras.



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S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

AP

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