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H.C.P.No.1271 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.1271 of 2023

Ilayavanan
Son of Mani

..

Petitioner

v.

1. State of Tamil Nadu

represented by the Secretary to Government
Department of Home, Prohibition and Excise
Secretariat, Fort St.George
Chennai 600 009

2. The Commissioner of Police

Greater Chennai
Office of Commissioner of Police
Vepery, Chennai 600 007

3. Superintendent of Police

Central Prison, Puzhal
Puzhal, Chennai

4. Inspector of Police

R-6, Kumaran Nagar Police Station
Chennai

..

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 in Memo No.150/BCDFGISSSV/2023 passed by the 2nd respondent on 08.05.2023, on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce petitioner's son Ganesh Son of Ilayavanan aged about 33 years before this Hon'ble Court, who is now detained in Central Prison, Puzhal and set him at liberty.

For Petitioner :: Mr.A.Elumalai

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 father of the detenu, namely, Ganesh, aged 33 years, S/o Ilayavanan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 08.05.2023 slapped on his 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, Sand



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Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982

WEB COURT (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, this Court is able to see that the detaining authority has passed the detention order against the detenu by referring to the fact that similarly placed accused in Crime No.527 of 2021 and Crime No.81 of 2023 were granted bail by the learned Principal Sessions Judge at Chennai in CrI.M.P.No.19198 of 2021 and CrI.M.P.No.5571 of 2023 respectively. However, it is seen from the booklet furnished to the detenu that the copy of bail order in CrI.M.P.No.5571 of 2023 alone has been furnished, but not the order in CrI.M.P.No.19198 of 2021. Therefore, the subjective satisfaction arrived at by the detaining authority with regard to the real possibility of the detenu coming out on bail suffers from non-application of mind, as the right of the detenu to make an effective representation is denied by non-furnishing of the said vital



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document. Hence, the detention order is liable to be quashed.

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4. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 08.05.2023 in Memo No.150/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Ganesh, S/o Ilayavanan, aged 33 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

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

2. The Commissioner of Police
Greater Chennai
Vepery
Chennai 600 007



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3. The Superintendent
Central Prison
Puzhal, Chennai
4. The Inspector of Police
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5. The Public Prosecutor
High Court, Madras



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