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H.C.P.No.1240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM :

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

H.C.P.No.1240 of 2023

Kavitha

W/o Venkatesan

..

Petitioner

v.

1. The State represented by
The Secretary to Government
Government of Tamil Nadu
Home, Prohibition and Excise (IX) Department
Secretariat, St.George Fort
Chennai 600 009
2. The District Collector cum District Magistrate
The District Collectorate
Kallakurichi & District
3. The Superintendent of Police
The Superintendent of Police Office
Kallakurichi District
4. The Superintendent of Prison
Central Prison
Cuddalore



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5. The Inspector of Police
Prohibition and Enforcement Wing
Kallakurichi & District

.. Respondents

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 in with reference to detention order No.C2/14/2023 dated 08.06.2023, setting aside the order of detention passed therein and directing the respondents to produce the detenu by namely Venkatesan, Son of Chandran, aged about 29 years, before this Hon'ble Court, now detained in Central Jail at Cuddalore and setting him at liberty.

For Petitioner :: Mr.V.Gunasekar

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 wife of the detenu, namely, Venkatesan, aged 29 years, S/o Chandiran, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 08.06.2023 slapped on her husband, branding him as 'Bootlegger' 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, it was pointed out by the learned counsel appearing for the petitioner from the booklet that the similar case relied upon by the detaining authority, is not similar to the case on hand. A reading of the order that was passed by the learned Principal Sessions Judge, Villupuram in CrI.M.P.No.809 of 2020 dated 31.01.2020 shows that bail was granted in favour of the accused in that case after recording that the report of the chemical analyst was not received. The same cannot be relied upon to arrive at the subjective satisfaction that the detenu in the present case is likely to be released on bail. Facts of that case are not similar to the case on hand. Therefore, the subjective satisfaction suffers from non-application of mind and on that score, the impugned detention order is liable to be set aside.



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4. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 08.06.2023 in No.C2/14/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Venkatesan, S/o Chandiran, aged 29 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

08.11.2023

ss

To

1. The Secretary to Government
Home, Prohibition and Excise (IX) Department
Fort St.George
Chennai 600 009
2. The District Collector cum District Magistrate
The District Collectorate
Kallakurichi & District
3. The Superintendent of Police
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5. The Inspector of Police
Prohibition and Enforcement Wing
Kallakurichi & District

6. The Public Prosecutor
High Court, Madras



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AND

SUNDER MOHAN,J.

SS

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