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H.C.P.No.1288 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

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

H.C.P.No.1288 of 2023

Rosepriya

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai – 9.

2.The Commissioner of Police,
Salem City, Salem District.

3.The Superintendent of Prison,
Central Prison, Salem,
Salem District.

4.State rep. By its
The Inspector of Police,
Veeranam Police Station,
Salem District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records relating to the petitioner's husband's detention under Tamil Nadu Act 14 of 1982 vide detention order dated 15.06.2023 on the file of the second respondent herein made in proceedings in Memo C.M.P. No.54/Goonda/Salem City/2023 quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Ranjithkumar @ Don Ranjith,



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S/o.Thangaraj, aged 25 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison, Salem.

For Petitioner : Mr.W.Camyles Gandhi
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, wife of the detenu Ranjithkumar @ Don Ranjith, has come forward with this petition challenging the detention order passed by the second respondent dated 15.06.2023 slapped on her husband, 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 Offenders, Sexual 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 have been raised in the petition, the learned counsel for the petitioner submitted that subjective satisfaction arrived at by the detaining authority while inferring that the detenu is likely to be released on bail suffers from non-application of mind.

4. Referring to the order in C.M.P. No.346 of 2019 dated 02.02.2019 passed by the Principal Sessions Judge, Salem, at page Nos.195 and 196 of the booklet, learned counsel pointed out that bail was granted to the accused in that case as the accused therein was detained under Act 14 of 1982 and suffered long period of incarceration. However, in the instant case, the facts are not similar. Therefore, the subjective satisfaction arrived at by the detaining authority is irrational and suffers from non-application of mind.

5. In paragraph 4 of the grounds of detention, it is stated as follows:

'4. I am aware that Ranjith Kumar @ Don Ranjith is in remand in the case of Veeranam PS Cr.No.168/2023 under section 392 r/w 397 IPC and so far no bail petition filed on behalf of him in his case. Further, it is learnt that the relative of Ranjith Kumar @ Don Ranjith is taking efforts to move bail application to take him out on bail in the above case. I am also aware that bail has been granted by the Principal Sessions Judge, Salem in C.M.P.No.346/2019 dated 2.2.2019 for a similar case of Kannankuruchi PS Cr.No.693/2018



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u/s.392, 397, 506(ii) IPC registered against one Thiru.Mandaivijai @ Vijayakumar, who was remanded on 31.12.2018. Hence, I infer that there is a real possibility of his (Ranjith Kumar @ Don Ranjith) coming out on bail in the above case, since bails are granted for similar cases by the concerned Court or the higher Court after efflux of certain time....'

6. The facts narrated in the grounds of detention would show that the detenu was involved in three adverse cases and he was granted bail in all three adverse cases. Insofar as the ground case is concerned, the detenu has not moved any bail application.

7. The Hon'ble Supreme Court, in the case of ***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another*** reported in **2011 [5] SCC 244**, has held as follows :

"10.In our opinion, if details are given by the respondent authority about the alleged bail orders in similar cases mentioning the date of the orders, the bail application number, whether the bail order was passed in respect of the co-accused in the same case, and whether the case of the co-accused was on the same footing as the case of the petitioner, then, of course, it could be argued that there is likelihood of the accused being released on bail, because it is the normal practice of most courts that if a co-accused has been granted bail and his case is on the same footing as that of the petitioner, then the petitioner is ordinarily granted bail.



However, the respondent authority should have given details about the alleged bail order in similar cases, which has not been done in the present case. A mere ipse dixit statement in the grounds of detention cannot sustain the detention order and has to be ignored.

11.*In our opinion, the detention order in question only contains ipse dixit regarding the alleged imminent possibility of the accused coming out on bail and there was no reliable material to this effect. Hence, the detention order in question cannot be sustained.”*

8. In the present case, when there is no reason even to probalilise an attempt by any of the relatives of the detenu to take steps to file bail application, this Court finds that the subjective satisfaction arrived at by the detaining authority is unsustainable. Therefore, this Court is of the view that the detention order suffers from non-application of mind and hence, the same is liable to be quashed.

9. In view of the aforesaid reason, the detention order passed by the second respondent dated 15.06.2023 in C.M.P.No.54/Goonda/Salem City/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ranjith Kumar @ Don Ranjith, S/o.Thangaraj, aged about 25 years, is directed to be



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set at liberty forthwith unless he is required in connection with any other case.

(S.S.S.R., J.) (S.M., J.)
17.11.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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

S.S. SUNDAR, J.
and



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