



H.C.P.No.1278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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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.1278 of 2023

Nagavalli
W/o Murugan

.. Petitioner

v.

1. The State of Tamil Nadu
represented by Secretary to Government
Home, Prohibition & Excise Department
Fort St.George
Chennai 600 009
 2. The Commissioner of Police/Detaining Authority
Tiruppur City, Tiruppur
 3. The Inspector of Police
Nallur Police Station
Tiruppur City
 4. The Superintendent of Prison
Central Prison
Coimbatore
Coimbatore District
- .. Respondents
Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order dated 10.05.2023 passed by the second respondent in his proceedings No.C.No.21/G/IS/Tiruppur City/2023 and quash the same and direct the respondents herein to produce the petitioner's husband namely Murugan, son of Arunachaladevar aged about 40 years, who is presently undergoing detention in the Central Prison, Coimbatore, as Goonda before this Hon'ble Court and set him at liberty forthwith.

For Petitioner :: Mr.C.S.Saravanan

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, Murugan, aged 40 years, Son of Arunachala Thevar, has come forward with this petition challenging the detention order passed by the second respondent dated 10.05.2023 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).



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2. The learned counsel appearing for the petitioner, assailing the impugned detention order, submitted that the detaining authority relied upon the order passed in Crl.M.P.No.769 of 2023 (similar case) to satisfy himself that there is a real possibility of the detenu coming out on bail. But it was pointed out by the counsel that the order passed in similar case relied upon by the detaining authority shows that there was no previous case as against the co-accused. Since there is an adverse case against the detenu herein, the detaining authority ought to have considered the same before passing the order. The learned counsel also pointed out before this Court that the detenu was not furnished with the clean/legible copy of the remand order and therefore he was deprived of an opportunity to make an effective representation.

3. We have also heard the learned Additional Public Prosecutor appearing for the respondents.

4. This Court finds substance in the contentions urged by the learned



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counsel for the petitioner. The bail order passed in similar case does not refer to any adverse case as against the co-accused. Since there is an adverse case against the detenu in the present case, the subjective satisfaction arrived at by the detaining authority regarding the possibility of the detenu coming out on bail would show his non-application of mind to the admitted facts and the same vitiates the detention order. Similarly, this Court also finds from page-187 of the booklet that the copy of the remand order is not legible and therefore, as rightly contended by the learned counsel for the petitioner, the detenu is deprived of an opportunity to make an effective representation.

5. In view of the aforesaid reasons, the detention order passed by the second respondent dated 10.05.2023 in C.No.21/G/IS/Tiruppur City/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Murugan S/o Arunachala Thevar, aged 40 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.)



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Neutral citation : yes/no

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SS

To

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High Court, Madras



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