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H.C.P.No.1304 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.1304 of 2023

S.Ayesha
W/o Sheik Somon @ Salman .. Petitioner

v.

1. State of Tamil Nadu
rep.by the Secretary
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009
2. The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai 600 007
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai District
4. The Inspector of Police
Chennai Anti Vice Squad-II
AVS-II Police Station
Chennai District .. 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, to call for the records relating to the detention order vide Memo No.215/BCDFGISSSV/2023 dated 08.06.2023, passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's husband namely Sheikh Somon @ Salman, aged about 42 years, (who is presently undergoing detention in the Central Prison, Puzhal, Chennai), before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.R.Parthiban

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, Sheikh Somon @ Salman aged 42 years, S/o Sheikh Amjad, 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 'Immoral Traffic Offender' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



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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 appearing 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 appearing for the petitioner confined his arguments to the following two points:-

- (i) Referring to page-779 of the booklet, the learned counsel pointed out that the order relied upon by the detaining authority in CrI.M.P.No.20738 of 2022, is not similar to the case on hand. It was pointed out that bail was granted to the accused in that case on the ground that he has no previous case. But in the present case, it is admitted that the detenu has one adverse case against him.
- (ii) The detaining authority has relied upon/referred to certain materials which are extraneous to this case. Referring to page-829 of the booklet, the learned counsel pointed out that the bail order dated 12.01.2023 passed in CrI.M.P.No.508 of 2023 is not at all relevant to the present case.



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4. This Court, on perusal of the booklet, finds that the bail petition in Crl.M.P.No.508 of 2023 was dismissed and the detaining authority has failed to explain or justify the relevancy of the said document while passing the order of detention against the detenu. Similarly, bail was granted to the accused in a similar case considering the fact that he has no previous case. Whereas the detenu in the present case has one adverse case against him. Therefore, the subjective satisfaction of the detaining authority suffers from non-application of mind. It is also to be noted that the mother tongue of the detenu is Kannada and he is not conversant with English or Tamil. Though several documents were translated to the benefit of the detenu, index of contents was not at all translated, which has seriously prejudiced the detenu in making an effective representation. For these reasons, this Court finds that the detention order cannot be sustained and is liable to be quashed.

5. Accordingly, the detention order passed by the 2nd respondent dated 08.06.2023 in No.215/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Sheikh Somon @



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Salman, S/o Sheikh Amjad, aged 42 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 Department
Fort St.George
Chennai 600 009
2. The Commissioner of Police
Greater Chennai
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai 600 007
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5. The Public Prosecutor
High Court, Madras



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SUNDER MOHAN,J.

SS

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