



H.C.P.No.1359 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1359 of 2023

Surendhiran

... Petitioner

Vs.

1.The State of Tamil Nadu, represented by
The Additional Chief Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George, Chennai – 600 009.

2.The District Magistrate and District Collector,
Tiruppur District, Tiruppur.

3.The Superintendent of Police,
Tiruppur District, Tiruppur.

4.The Superintendent of Prisons,
Central Prison, Coimbatore.

5.The Inspector of Police,
Avinashipalayam Police Station,
Tiruppur District, Tiruppur.

... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for records pertaining to the order of detention passed by the second respondent in Cr.MP.No.07/Goonda/2023 dated 20.01.2023 against Surendhiran. M / A-38 years, S/o. Chellaiyah, Door No.8, Indira Nagar, Chandrapuram, Tiruppur District now residing at Bai Compound, Koduvai, Avinashipalayam, Tirupur South Taluk, Tiruppur District now confined in Central Prison, Coimbatore detaining him as a Goonda, set aside the Impugned Order of Detention passed in Cr.M.P.No.07/Goonda/2023 dated 20.01.2023 under the Tamil Nadu Act 14 /1982; and direct the Respondents to produce the body of the detenu namely Surendhiran. M / A-38 years, S/o. Chellaiyah, Door No.8, Indira Nagar, Chandrapuram, Tiruppur District, now residing at Bai Compound, Koduvai, Avinashipalayam, Tirupur South Taluk, Tiruppur District now confined in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner	:	Mr.H.Maruthi Raj
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor assisted by Mr.C.Aravind



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

The petitioner, namely, Surendhiran, aged 38 years, S/o.Chellaiyah, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 20.01.2023 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand 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 are raised in the petition, the learned counsel for the petitioner submitted that there is total non-application of mind by the Detaining Authority in the present case, as the Detaining Authority has not given any reason to suspect that the petitioner is likely to come on bail.



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4.The facts narrated in the Grounds of Detention shows that the detenu was arrested in three adverse cases and in all the three adverse cases, the application filed by the detenu for enlarging him on bail were dismissed and it is also recorded that the petitioner has not moved any bail application in the ground case.

5.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.”

6. In the present case, when there is no reason even to probabilise an attempt by any of the relatives of the detenu to take steps to file bail application, this Court finds that the subjective satisfaction by the Detaining Authority that the detenu may come out on bail, is irrational. 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.



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7.In view of the aforesaid reason, the detention order passed by the 2nd

respondent dated 20.01.2023 in Cr.M.P.No.07/Goonda/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Surendhiran, aged 38 years, S/o.Chellaiyah, is directed to be set at liberty forthwith unless he is required in connection with any other case.

(S.S.S.R., J.) (S.M., J.)
17.10.2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

- 1.The Additional Chief Secretary to Government,
Department of Home, Prohibition and Excise,
Secretariat, Fort St. George, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
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- 3.The Superintendent of Police,
Tiruppur District, Tiruppur.
- 4.The Superintendent of Prisons,
Central Prison, Coimbatore.

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5. The Inspector of Police,
Avinashipalayam Police Station,
Tiruppur District, Tiruppur.

6. The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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