



WEB COPY



HCP.No.1305 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2023

CORAM

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

H.C.P.No.1305 of 2023

Amutha .. Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai, Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police,
C1 Flower Bazaar Police Station,
Chennai - 1.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Habeas Corpus to call for the records in No.264/BCDFGISSSV/2023 passed by the 2nd respondent on 27.06.2023 on the file of the 2nd respondent and quash the same as illegal and consequently direct the respondents to produce petitioner's husband Saravanan, S/o. Chellappan, aged about 37 years before this Court, who is now detained in Central Prison, Puzhal II, Chennai and set him at liberty.

For Petitioner : Mr.A.Elumalai



WEB COPY



HCP.No.1305 of 2023

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 Saravanan, has come forward with this petition challenging the detention order passed by the second respondent dated 27.06.2023 slapped on her husband, branding him as "Drug Offender" 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 points have been raised by the petitioner, the learned counsel for the petitioner submitted that special report refers to a different person whereas the same has been relied upon by the detaining authority for arriving at subjective satisfaction that the detenu should be detained under Act 14 of 1982.



HCP.No.1305 of 2023

WEB COPY

4. It is seen from Page No.109 of the booklet furnished to the detenu that the special report given by the sponsoring authority is in respect of the accused by name Gopi, S/o.Manohar whereas the name of the detenu in the present case is Saravanan, S/o.Chellappan. There is total non-application of mind on the part of the detaining authority as he has arrived at subjective satisfaction based on the said special report. Therefore, the detention order suffers from non-application of mind and the subjective satisfaction arrived at by the detaining authority is irrational.

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 considered a case where it is stated that in the grounds of detention that relatives of detenu are taking action to take him on bail in the criminal case in which the detenu was in remand and that in similar case, bail was granted by Courts. Since no details had been given about the alleged similar cases in which bail was allegedly granted by the Court concerned, it is held by Hon'ble Supreme Court that in the absence of details, the statement which is mere *ipse dixit*, cannot



HCP.No.1305 of 2023

be relied upon and that itself is sufficient to vitiate the detention order. When the subjective satisfaction was irrational or there was non-application of mind, the Hon'ble Supreme Court held that the order of detention is liable to be quashed. It is relevant to extract paragraphs No.10 and 11 of the said judgment of the Hon'ble Supreme Court:-

"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 view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view



HCP.No.1305 of 2023

that the detention order is liable to be quashed.

WEB COPY

7. In view of the aforesaid reason, the detention order passed by the second respondent dated 27.06.2023 in No.264/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Saravanan, S/o.Chellappan, aged about 37 years, 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.]
27.11.2023

Index:Yes/No
Neutral Citation:Yes/No
mmi

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 9.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Inspector of Police,
C1 Flower Bazaar Police Station,
Chennai - 1.



HCP.No.1305 of 2023

5.The Public Prosecutor
High Court, Madras.

WEB COPY

**S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,**

mmi

H.C.P.No.1305 of 2023

27.11.2023