



HCP.No.1296/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1296/2023

Balakumar

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Petitioner

Versus

- 1.The State of Tamil Nadu rep.by
its Principal Secretary to
Government, Home, Prohibition
and Excise Department
Fort St George, Chennai 600 009.
- 2.The District Collector & District Magistrate
Perambalur District.
- 3.The Superintendent of Police
Perambalur District.
- 4.The Superintendent of Central Prison
Tiruchirappalli.



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5.The Inspector of Police
Perambalur Police Station
Perambalur.

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Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records made in Cr.MP.No.41/2022 dated 26.12.2022 on the file of the respondent herein and quash the same illegal and direct the respondent to produce the detenu viz., Nanthkumar, S/o.Raja aged about 45 years residing at No.258D.A/46.A Mettu Street, Elambalur Road, Perambalur, Perambalur District, now confined in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.S.Arumugam

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

(1)The petitioner, brother of the detenu Nandakumar, aged 45 years, S/o.Raja, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 26.12.2022 slapped on his brother branding him as "Sexual Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders,



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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 raised the following two grounds. Firstly, the improper translation of the Remand Order in the vernacular version and secondly, the bail order in the similar case relied on by the Detaining Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail, was obtained on medical grounds. Hence, the learned counsel submitted that there is total non application of mind on the part of the Detaining Authority in arriving at the subjective satisfaction.
- (4) From a perusal of the Booklet, it is seen that the Detaining Authority had relied upon the order of bail granted to an accused therein in a similar case in Cr.MP.No.76/2018 passed by the learned Special Judge, Mahila Court. However, it is seen that the bail order in the similar case was granted on medical grounds and not on merits. It is in the said circumstances, this Court finds that the subjective satisfaction arrived by



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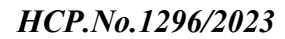
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the Detaining Authority suffers from non-application of mind. Hence, on the above grounds, the Detention Order is liable to be quashed.

(5) In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 26.12.2022 in Cr.MP.No.41/2022 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Nandakumar, S/o.Raja, aged 45 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.]
09.10.2023

AP



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6. The Public Prosecutor
High Court, Madras.



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