



H.C.P.No.1323 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.1323 of 2023

M.Sivasakthi

... Petitioner

Vs.

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

2.The Commissioner of Police,
Salem City, Salem District.

3.The Superintendent of Police,
Central Prison,
Salem.

4.The Inspector of Police,
Ammamet Police Station,
Salem,
Salem District.

... 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 the records in connection with the order of detention passed by the 2nd respondent in his proceedings CMP No.48/Goonda/Salem City/2023, dated 30.05.2023 against the petitioner's husband Mahi @ Mahendra Boopathy, aged 23 years, son of Karthikeyan, who is confined at Central Prison, Salem and set aside the same and direct the respondent to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Vengadesan
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, who is the wife of the detenu, namely, Mahi @ Mahendra Boopathy, aged 23 years, S/o.Karthikeyan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 30.05.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of



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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 confines his arguments to the following grounds :

- i. There was a considerable delay in considering the representation of the petitioner dated 10.07.2023.
- ii. The subjective satisfaction of the Detaining Authority is irrational, as the accused in similar case was released on bail based on the representation of the Public Prosecutor to the effect that bail can be granted if the accused is directed to stay away.

4.This Court finds that there is an unexplained delay of only one day in considering the representation of the petitioner. However, the second



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ground is appealing to us, as the case relied upon by the Detaining Authority is not similar to the case on hand, as the bail was granted to the accused therein only on recording no objection of the learned Public Prosecutor with a condition that there should be a direction to the accused therein to stay away. In the circumstances and on the admitted facts, this Court is of the view that the subjective satisfaction of the Detaining Authority suffers from non-application of mind. Therefore, the detention order is liable to be quashed.

5.In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 30.05.2023 in C.M.P.No.48/Goonda/Salem City/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mahi @ Mahendra Boopathy, aged 23 years, S/o.Karthikeyan, 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 Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police,
Salem City, Salem District.
- 3.The Superintendent of Police,
Central Prison,
Salem.
- 4.The Inspector of Police,
Ammamet Police Station,
Salem,
Salem District.
- 5.The Public Prosecutor,
High Court, Madras.



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