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HCP.No.1345/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.11.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1345/2023

Suganya

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Petitioner

Versus

1.The Additional Chief Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Commissioner of Police
Greater Chennai.

3.The Superintendent of Prison
Central Prison, Puzhal, Chennai-66.

4.The Inspector of Police [Law and Order]
B2 Esplanade Police Station
Chennai.

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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 in connection with the order of detention passed by the 2nd respondent dated



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17.06.2023 in Memo No.240/BCDFGISSSV/2023 against the petitioner's brother Karthick @ Kokki Karthick, male, aged 32 years, son of Rajasekar, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Ms.S.Bhuvaneswari
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.Aravind.C

ORDER

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

- (1)The petitioner, sister of the detenu has come forward with this petition challenging the detention order passed by the 2nd respondent dated 17.06.2023 slapped on her brother, branding him as "Goonda" under the 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)The learned counsel for the petitioner though canvassed several points before this Court, this Court is able to find some force in his submission that there is no application of mind on the part of the Detaining Authority. In the Grounds of Detention, in particular, paragraph NO.3, it is stated by



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the Detaining Authority that intimation about the arrest of the detenu was informed to his aunt in person. But, in the Arrest Intimation Form, it is stated that the arrest of the detenu was intimated to the detenu's aunt through SMS. This indicates total non application of mind on the part of the Detaining Authority. Hence, on the above ground, the Detention order is liable to be quashed.

(4) 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 similar situation wherein, it is held by Hon'ble Supreme Court that in the absence of details, the statement which is mere *ipse dixit*, cannot 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.

(5) 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 that the detention order is liable to be quashed.



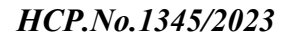
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(6) Accordingly, the detention order passed by the 2nd respondent dated 17.06.2023 in Memo No.240/BCDFGISSSV/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
21.11.2023

AP
Internet : Yes



- 1.The Additional Chief Secretary to the Government
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- 2.The Commissioner of Police
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- 3.The Superintendent of Prison
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High Court, Madras.



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AND
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