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H.C.P.No.1350 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.1350 of 2023

Chinnaponnu

... Petitioner

Vs.

1. Government of Tamil Nadu, represented by its.
Secretary, Home, Prohibition and Excise (XVI) Department,
Fort St. George, Chennai – 600 009.
2. The District Collector and District Magistrate,
Kallakurichi District, Kallakurichi.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Kallakurichi District.
4. The Superintendent Special Prison for Women,
Vellore, Vellore District.
5. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi 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 calling for the records in detention order in D.O.No.C2/09/2023 dated 29.05.2023 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the petitioner's sister Vimala alias Anjalai, Female, aged about 50 years, the detenue now confined in Special Prison for Women, Vellore, before this Court and set her at liberty.

For Petitioner : Mr.S.Sivakumar

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 sister of the detenue, namely, Vimala @ Anjalai, aged 50 years, Wife of Perumal, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 29.05.2023 slapped on her sister, branding her as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,



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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 pointed out from Page No.99 of the Booklet to
support his contention that the subjective satisfaction of the Detaining
Authority relying upon a similar order in Crl.O.P.No.21103 of 2016, dated
16.11.2016, is irrational.

4.In the similar case relied upon by the Detaining Authority, it is seen
that the accused therein was originally released on statutory bail under
Section 167(2) Cr.P.C. However, he was arrested later and remanded to
judicial custody after issuance of fresh Non-Bailable Warrant on account of
the fact that the accused was absconding. In the similar case, after referring
to all these facts and the fact that investigation is over, the accused therein



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was granted bail. However, in the present case, the same order has been understood by the Detaining Authority as if in the similar case, Anticipatory Bail was granted to the accused. This shows clear non-application of mind. Therefore, the order of detention is vitiated on the ground that the subjective satisfaction of the Detaining Authority suffers from non-application of mind.

5. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 29.05.2023 in D.O.No.C2/09/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue viz., Vimala @ Anjalai, aged 50 years, Wife of Perumal, is directed to be set at liberty forthwith unless she is required in connection with any other case.

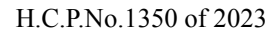
(S.S.S.R., J.) (S.M., J.)
17.10.2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No



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6. The Public Prosecutor,
High Court, Madras.



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