



HCP.No.1414/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1414/2023

Shanthi

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Petitioner

Versus

1.The State of Tamil Nadu

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

2.The Commissioner of Police

Greater Chennai Police
O/o.The Commissioner of Police
Vepery, Chennai 600 007.

3.The Inspector of Police [L&O]

P2 Otteri Police Station
Otteri, Chennai.

4.The Superintendent of Police

Central Prison, Puzhal,
Chennai 600 066.

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Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the entire records connected with the detention order passed by the 2nd respondent in memo No.188/BCDFGISSSV/2023 dated 23.05.2023 and quash the same as illegal and direct the respondents to produce the body or person of petitioner's grandson namely Anand @ Boxer Anand, male, aged 28 years S/o.Late Nagappan, and permanently residing at No.22, K.M.Garden, 6th Street, Perambur, Chennai before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.V.Muthuvisakan
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.]

- (1)The petitioner, grandmother of the detenu Anand @ Boxer Anand, aged 28 years, S/o.Nagappan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 23.05.2023 slapped on her grandson, branding him as "Drug Offender" 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)Though several grounds are raised in the petition, the learned counsel for the petitioner submitted that the bail order in the similar case relied on by

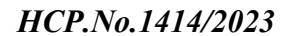


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the Detaining Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail, was obtained where the learned Public Prosecutor had not objected for grant of bail to the accused therein.

(4) On a perusal of the Grounds of Detention, it is seen that the Detaining Authority had relied upon the order of bail passed in a similar case in CrI.MP.No.662/2018 by the Principal Special Court under EC&NDPS Act, Chennai, to arrive at the subjective satisfaction that the detenu is likely to be released on bail. However, bail was granted to the accused in the similar case in CrI.MP.No.662/2018 as there was no objection on the side of the prosecution to release the accused therein on bail. It is also admitted that there are three adverse cases against the detenu herein and therefore, it is not likely that the detenu will also be released on bail. It is in the said circumstances, this Court finds that the subjective satisfaction arrived at by the Detaining Authority suffers from non-application of mind. Hence, on the above ground, the Detention Order is liable to be quashed.



"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



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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 reasons, this Court is of the view that the detention order is liable to be quashed.



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(7)Accordingly, the detention order passed by the 2nd respondent dated 23.05.2023 in No.188/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.]
19.10.2023

AP
To

- 1.The Additional Chief Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.
- 2.The Commissioner of Police
Greater Chennai Police
O/o.The Commissioner of Police
Vepery, Chennai 600 007.
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High Court, Madras.



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

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