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H.C.P.No.1519 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.1519 of 2023

Vasanthi
W/o Suresh

..

Petitioner

v.

1. The State of Tamil Nadu
rep. by its Additional Chief Secretary to Government
Department of Home, Prohibition and Excise
Secretariat, Fort St.George
Chennai 600 009
 2. The Commissioner of Police
Chennai City Police, Greater Chennai
Commissioner Office, Vepery
Chennai 600 007
 3. The Inspector of Police
J-9, Thuraipakkam Police Station
Chennai
 4. The Superintendent of Prison
Central Prison-II
Puzhal, Chennai
- .. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, to call for the records in No.193/BCDFGISSSV/2023 dated 30.05.2023, on the file of second respondent herein and set aside the same as illegal and produce the detenu Ajay @ Reeta, son of Raja, aged 22 years, now confined at Central Prison-II, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.Ilayaraja Kandasamy

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind, Advocate

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The petitioner, who is the aunt of the detenu, namely, Ajay @ Reeta, aged 22 years, S/o Raja, has come forward with this petition challenging the detention order passed by the second respondent dated 30.05.2023 slapped on the detenu, branding him as 'Drug Offender' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act,



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1982 (Tamil Nadu Act 14 of 1982).

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2. Heard the learned counsel appearing 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 appearing for the petitioner has urged the following points:

(i) The copy of the remand report at page-50 of the booklet is not legible and therefore the detenu was deprived of an opportunity to make an effective representation.

(ii) The detaining authority has relied upon the order passed in CrI.M.P.No.1842 of 2020, wherein the accused therein was granted bail by recording the fact that he had been incarcerated for more than 37 days and that the respondent police failed to produce the contraband allegedly seized from the accused therein immediately before the Court.

4. This Court finds merit on both the grounds urged by the learned counsel appearing for the petitioner. We are convinced that the remand report at page 50 of the booklet is not legible. Similarly, the detaining



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authority failed to consider the peculiar facts and circumstances of the case that were relied by him to satisfy himself that the detenu is likely to be released on bail, since the bail granted to the accused in similar case was on specific grounds, which are absent in the case relating to the detenu. Therefore, this Court finds that the order impugned herein is vitiated for non-application of mind and the same is liable to be set aside.

5. In view of the aforesaid reasons, the detention order passed by the second respondent dated 30.05.2023 in No.193/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Ajay @ Reeta, S/o Raja, aged 22 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

30.10.2023

ss

To

1. The Additional Chief Secretary to Government
Department of Home, Prohibition and Excise



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Chennai 600 009

2. The Commissioner of Police
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5. The Public Prosecutor
High Court, Madras



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AND

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SS

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