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HCP.No.1556/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1556/2023

Lakshmi

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Petitioner

Versus

1.State rep.by

The Secretary to Government

Home, Prohibition & Excise Department

Fort St George, Chennai-9.

2.The Commissioner of Police

Salem City.

3.The Superintendent of Prison

Central Prison, Salem.

4.The Inspector of Police

Salem Government Hospital Police Station

Salem City.

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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 records in CMP.No.25/Goonda/Salem City/2023, dated 21.04.2023 on the file of the 2nd respondent and quash the detention as illegal and direct the respondents to produce the detenu, Thiru.Nandakumar, S/o.Govindaraj, aged about 26 years, 14/4, Kualthukadu, Agraharam 6th Street, Pallipalayam, Kumarapalayam, Namakkal District, now at near Thekkalur Government School, Avinasi, Tiruppur District now confined at Central Prison, at Salem before this Court and set him at liberty forthwith.

For Petitioner : Ms.S.Sengodi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

(1)The petitioner, mother of the detenu Nandakumar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 21.04.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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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 points have been raised by the learned counsel for the petitioner, the learned counsel submitted that the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority while stating that the detenu is likely to be released on bail by relying on a similar case, is vitiated.
- (4) In paragraph No.4 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case as well as in the adverse cases since in a similar case, bail was granted to the accused therein by the learned Principal Sessions Judge, Salem, in CMP.No.346/2019 for the case registered in Crime No.693/2018, for the offences u/s.392, 397 & 506[ii] of IPC and relied upon the said bail order passed in the said case to arrive at the subjective satisfaction. On a perusal of the said order, this Court finds that the facts in the above case are not similar to the facts of the present case. As



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against the detenu in the present case, there were three adverse cases.

Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail in the adverse cases and in the ground case, suffers from non-application of mind, which vitiates the detention order.

(5) In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 21.04.2023 in CMP.No.25/Goonda/Salem City/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Nandakumar, S/o.Govindaraj, aged 26 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
06.10.2023

AP



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To

1. The Secretary to Government
Home, Prohibition & Excise Department
Fort St George, Chennai-9.
2. The Commissioner of Police
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4. The Inspector of Police
Salem Government Hospital Police Station
Salem City.
5. The Public Prosecutor
High Court, Madras.



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

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