



H.C.P.No.1623 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1623 of 2023

Perarasi Saranya

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The District Collector/District Magistrate of Cuddalore,
Cuddalore District – 607 001.
- 3.The Superintendent of Police,
Cuddalore District – 607 001.
- 4.The Superintendent of Central Prison,
Cuddalore – 607 004.
- 5.The Deputy Superintendent of Police,
Panruti Sub-Division,
Panruti, Cuddalore District.



H.C.P.No.1623 of 2023

6.The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District – 607 103.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for the records on the file of the 2nd respondent relating to the impugned order of detention dated 12.06.2023 in C3/D.O./23/2023 and quash the same and consequently set the detenu Viswanathan, S/o.Rajendran, aged 34 years. at liberty. who is confined at Central Prison, Cuddalore.

For Petitioner	:	Mr.N.U.Pressanna
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor assisted by Aravind C.

ORDER

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

The petitioner, wife of the detenu Viswanathan, S/o.Rajendran, aged 34 years, has come forward with this petition challenging the detention order passed by the 2nd respondent, dated 12.06.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas,



H.C.P.No.1623 of 2023

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 confined his arguments mainly on the point that
the Detaining Authority has relied upon stale cases and that the incidents
relied upon by the Detaining Authority has no live and proximate connection
with activities alleged to be prejudicial to maintenance of public order. In
support of his contentions, the learned counsel relied upon the judgment of
the Hon'ble Supreme Court in *Sama Aruna v. State of Telengana and
others* reported in *(2018) 12 SCC 150*.

4.The Hon'ble Supreme Court, in *Sama Aruna's case (supra)*, has
held that the past conduct of the detenu is not relevant if it has no live and
proximate link with immediate need to detain the detenu preventively. In



Para Nos.22 and 23 of the judgment, the Hon'ble Supreme Court has observed as follows :

“22.We are of the view, that the detention order in this case is vitiated by taking into account incidents so far back in the past as would have no bearing on the immediate need to detain him without a trial. The satisfaction of the authority is not in respect of the thing in regard to which it is required to be satisfied. Incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the statute.

23.In this case, we find the authority has come to a conclusion so unreasonable that no reasonable authority could ever reach. A detaining authority must be taken to know both, the purpose and the procedure of law. It is no answer to say that the authority was satisfied. In T.A. Abdul Rahman v. State of Kerela and Ors. [(1989) 4 SCC 741] , this Court observed, where the authority takes into account stale incidents which have gone by to seed it would be safe to infer that the satisfaction of the authority is not a genuine one.”



H.C.P.No.1623 of 2023

5. In the present case, this Court finds that the adverse cases relied upon by the Detaining Authority are of the years 2019 and 2021, whereas, the ground case is of the year 2020. The Detention Order is based on previous cases and ground case which are all about two years prior to the date of Detention Order. This Court finds no material to indicate that the past incidents relied upon by the Detaining Authority to arrive at the substantive satisfaction to detain the detenu, have a live and proximate link with the activities of the detenu which is prejudicial to the maintenance of public order. As held by the Hon'ble Supreme Court in *Sama Aruna's case (supra)*, incidents which are stale, cease to have relevance to the subject matter of the enquiry and must be treated as extraneous to the scope and purpose of the Statute. The incidents relied upon by the Detaining Authority are stale and do not indicate the immediate need to detain the detenu. The Detaining Authority has taken into account only stale incidents and therefore, there is no compelling necessity to detain the detenu in the ground case without a trial.



H.C.P.No.1623 of 2023

6.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 vitiated and the same is liable to be quashed.

7.In fine, the detention order passed by the 2nd respondent dated 12.06.2023 in C3/D.O./23/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Viswanathan, S/o.Rajendran, aged 34 years, 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.)
15.11.2023

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Neutral Citation : Yes / No

To

Page 6 of 8



H.C.P.No.1623 of 2023

1. The Secretary to Government,
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S.S. SUNDAR, J.
and



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H.C.P.No.1623 of 2023

SUNDER MOHAN, J.

mkn

H.C.P.No.1623 of 2023

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