



HCP.No.1649/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1649/2023

Mohammed Jaffer

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Petitioner

Versus

- 1.The State of Tamil Nadu, rep.by
its Additional Chief Secretary to Government
Home, Department of Prohibition & Excise
Secretariat, Fort St George,
Chennai 600 009.
- 2.The Commissioner of Police
Greater Chennai, O/o.The Commissioner of Police
Vepery, Chennai 600 007.
- 3.The Inspector of Police
V1, Villivakkam Police Station
Chennai.
- 4.The Superintendent of Prison
Central Prison – II, Puzhal, Chennai.

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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 No.102/BCDFGISSSV/2023 dated 13.04.2023 on the file of 2nd respondent herein and set aside the same as illegal and produce the detenu Mohammed Jaffer, son of Nawab Jaan aged 29 years, now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

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

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

- (1)The petitioner, detenu herein, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 13.04.2023 slapped on him, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, 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



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the petitioner contended that the bail order in the similar case relied on by 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. However, in the present case, the detenu is involved in five adverse cases and a ground case.

(4) From a perusal of the Grounds of Detention, it is seen that the Detaining Authority had relied upon the order of bail passed in similar case, 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 as there was no objection on the side of the prosecution to release the accused therein on bail. However, in the case of the detenu herein, he is involved in five adverse cases 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.

(5) In view of the aforesaid reasons, the detention order passed by the 2nd



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respondent dated 13.04.2023 in No.102/BCDFGISSSV/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mohammed Jaffer, S/o.Nawab Jaan, aged 29 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.]
13.10.2023

AP

To



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5. The Public Prosecutor
High Court, Madras.



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

AP

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