



HCP.No.1659/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.11.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1659/2023

Boomika

.. Petitioner

Versus

1.State of Tamil Nadu
rep.by its Secretary to Government
Home, Prohibition & Excise Department
Secretariat, Chennai-600 009.

2.The Commissioner of Police
Greater Chennai.

3.The Inspector of Police
Anti Vice Squad-I
Chennai.

4.The Superintendent
Central Prison, Puzhal, Chennai.

.. Respondents

Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus calling for the records relating



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to petitioner's friend detention under Tamil Nadu Act 14 of 1982 vide detention order dated 22.06.2023 on the file of the 2nd respondent herein made in proceedings No.246/BCDFGISSSV/2023 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's friend namely Sathish Kumar [a] Sathish aged 27 years, son of Nallusamy before this Court and set him at liberty now petitioner's friend detained at Central Prison, Puzhal, Chennai 600 066.

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

ORDER

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

- (1)The petitioner, friend of the detenu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 22.06.2023 slapped on her friend, branding him as "Immoral Traffic 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.



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(3) The learned counsel for the petitioner though canvassed several points before this Court, this Court is able to find some force in his submission that there is no application of mind on the part of the Detaining Authority in arriving at the subjective satisfaction that the detenu is likely to be released on bail in the ground case by referring to an order passed in the similar case in Crl.MP.No.2833/2023 by the learned IV Metropolitan Magistrate, Saidapet, Chennai. Learned counsel submitted that the Detaining Authority has referred to the above order passed in the similar case in the Grounds of Detention, in particular, paragraph No.4, to hold that the accused therein was released on bail. However, the said bail order in the similar case is not furnished in the Booklet. Therefore, this Court is of the view that the subjective satisfaction arrived at by the Detaining Authority is based on material which has not been furnished to the detenu. Even before this Court also, the order in Crl.MP.No.2833/2023 is not furnished. Therefore, the subjective satisfaction of the Detaining Authority is irrational and suffers from non application of mind and on this ground, the Detention Order is liable to be quashed.



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(4) The Hon'ble Supreme Court, in the case of ***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another*** reported in ***2011 [5] SCC 244***, has considered a case where it is stated that in the grounds of detention that relatives of detenu are taking action to take him on bail in the criminal case in which the detenu was in remand and that in similar cases, bail was granted by Courts. Since no details had been given about the alleged similar cases in which bail was allegedly granted by the Court concerned, it is held by Hon'ble Supreme Court that in the absence of details, the statement which is mere *ipse dixit*, cannot be relied upon and that itself is sufficient to vitiate the detention order. When the subjective satisfaction was irrational or there was non-application of mind, the Hon'ble Supreme Court held that the order of detention is liable to be quashed. It is relevant to extract paragraphs No.10 and 11 of the said judgment of the Hon'ble Supreme Court:-

"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



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passed in respect of the co-accused in the same case, and 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."

(5) In view of the ratio laid down by the Hon'ble Supreme Court and in view



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

(6) Accordingly, the detention order passed by the 2nd respondent dated 22.06.2023 in No.246/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.]
22.11.2023

AP
Internet : Yes



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



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

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