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H.C.P.No.1724 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.1724 of 2023

Vijay

S/o Govindhan

..

Petitioner

v.

1. State of Tamil Nadu

rep. by the Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009

2. The Commissioner of Police

Office of the Commissioner of Police
Avadi City, Chennai 600 054

3. The Superintendent of Prison

Central Prison, Puzhal
Chennai 600 066

4. The Inspector of Police

T-3, Korattur Police Station
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, calling for the records relating to the detention order in Memo No.201/BCDFGISSSV/2022 dated 29.12.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's friend Vijayakumar @ Otta Viji, S/o Sundaramurthy aged about 31 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.C.Johnson Samuel

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 friend of the detenu, namely, Vijayakumar @ Otta Viji, S/o Sundaramurthy, aged 31 years, has come forward with this petition challenging the detention order passed by the second respondent dated 29.12.2022 slapped on his friend, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



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Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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 confined his argument to the point that the detaining authority has relied upon the order passed in CrI.M.P.No.10485 of 2021 dated 26.05.2021 by the Court of Sessions at Chennai, which is not similar to the ground case alleged against the detenu. The learned counsel pointed out that the bail was granted to the accused in similar case only after recording the Covid-19 pandemic situation. Therefore, the impugned detention order is liable to be set aside.

4. This Court in several cases has held that the order passed by the detaining authority without adverting to the grounds on which the accused in similar case was granted bail, would vitiate the order of detention for non



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application of mind. Therefore, this Court, concurring with the statement of the learned counsel for petitioner on facts that the impugned detention order is vitiated for non application of mind, is inclined to allow the habeas corpus petition.

5. In view of the aforesaid reason, the detention order passed by the second respondent dated 29.12.2022 in No.201/BCDFGISSSV/2022 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Vijayakumar @ Otta Viji, S/o Sundaramurthy, aged 31 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
30.10.2023

SS
To

1. The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009
2. The Commissioner of Police



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3. The Superintendent of Prison
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5. The Public Prosecutor
High Court, Madras



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