



H.C.P.No.1734 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

H.C.P.No.1734 of 2023

Pothumponnu

... Petitioner

Vs.

1.State of Tamil Nadu rep. By
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.

2.District Magistrate and District Collector
of Tiruppur District,
Office of the District Magistrate and
District Collector,
Tiruppur District, Tiruppur.

3.The Superintendent of Police,
Tiruppur, Tiruppur District.

4.The Superintendent of Prison,
Central Prison, Coimbatore,
Coimbatore District.

... Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of habeas corpus to call for the
records relating to the detention order in Cr.M.P.
No.01/GOONDA/2023 dated 03.01.2023 passed by the second
respondent under the Tamil Nadu Act 14 of 1982 and set aside the



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same and direct the respondents to produce the petitioner's husband Ranjith, S/o.Kanthasamy, aged about 33 years, the detenu, now confined in Central Prison, Coimbatore before this Court and set him at liberty.

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

ORDER

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

The petitioner, wife of the detenu Ranjith, has come forward with this petition challenging the detention order passed by the second respondent dated 03.01.2023 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual 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.



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3. Though several grounds have been raised in the petition, the learned counsel for the petitioner submitted that there is not even an averment in the grounds of detention as to how the detaining authority has arrived at subjective satisfaction that there is compelling necessity to detain the detenu. It is not even stated that the detenu is likely to be released on bail.

4. In paragraph 5 of the grounds of detention, it is stated as follows:

'5. I am aware that Thiru.Ranjith is now lodged at Central Prison, Coimbatore as a remand prisoner in Tiruppur District, Mangalam Police Station Crime No.157/2022 under Section 174 Criminal Procedure Code altered into under Section 302, 210 Indian Penal Code case and in the above case his remand period has been extended till 11.01.2023. I also aware that he has not moved any bail application in the above case sofar. Therefore, on the materials placed before me, I am satisfied that the said Ranjith is a Goonda and there is a compelling necessity to detain him in custody under the Tamil Nadu Act 14 of 1982 in order to prevent him from indulging in such further activities in future which are prejudicial to the maintenance of public order, public peace and public health under Section 3(1) of the Tamil Nadu Act 14 of 1982 and G.O.(D) No.326, Home, Prohibition and Excise (XVI) Department, Dated 13.10.2022 as per the exercise of the powers delegated to me.'

5. The facts narrated in the grounds of detention would show



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that the detenu was involved in four adverse cases and he was granted bail in all four adverse cases. Insofar as the ground case is concerned, the detenu has not moved any bail application.

6. 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 held as follows :

"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 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



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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."

7. In the present case, when there is no reason even to probabalise an attempt by any of the relatives of the detenu to take steps to file bail application, this Court finds that the subjective satisfaction arrived at by the detaining authority is unsustainable. Therefore, this Court is of the view that the detention order suffers from non-application of mind and hence, the same is liable to be quashed.

8. In view of the aforesaid reason, the detention order passed by the second respondent dated 03.01.2023 in Cr.M.P.No.01/GOONDA/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ranjith, S/o.Kanthasamy, aged about 33 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.)
06.11.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

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- 2.The District Magistrate and District Collector
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Office of the District Magistrate and
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- 3.The Superintendent of Police,
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Central Prison, Coimbatore,
Coimbatore District.
- 5.The Public Prosecutor,
High Court, Madras.



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