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HCP.No.1899/2023

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.1899/2023

Jeyalakshmi

Versus

.. Petitioner

1.The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.District Magistrate & District Collector
Tiruppur, Tiruppur District.

3.The Superintendent of Police
Tiruppur, Tiruppur District.

4.The Superintendent
Central Prison, Coimbatore.

5.The Inspector of Police
Uthiyur Police Station
Tiruppur District.

.. 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 connection with the order of detention passed by the 2nd respondent dated 18.05.2023 in Cr.MP.No.22/Goonda/2023 against the petitioner brother Saleem Gokul @ Gokulraj, son of Balaguru, who is confined at Central Prison, Coimbatore and set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Saranraj

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, sister of the detenu Saleem Gokul @ Gokulraj, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 18.05.2023 slapped on her brother, branding him as "Goonda" 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.



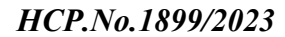
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(3)The learned counsel for the petitioner though canvassed several points before this Court, this Court is able to find some force in his submission that there is no application of mind on the part of the Detaining Authority in arriving at the subjective satisfaction that the detenu is likely to be released on bail. In the Grounds of Detention, in particular, paragraph NO.3[iv], it is stated by the Detaining Authority that intimation about the arrest of the detenu was informed to his sister over Cell Phone and the Arrest memo copy was sent through Speed Post. But, in the Remand Order, it is stated that the Arrest Memo was served through E-Post. This indicates total non application of mind on the part of the Detaining Authority.

(4)Further, a perusal of the Booklet, in particular, page No.160, it is seen that the copy of the Postal Receipt, is not legible and could not be read at all. Hence, on the above grounds, the Detention order is liable to be quashed.

(5)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 similar situation wherein, it is held by



"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



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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."

(6) In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid reasons, this Court is of the view that the detention order is liable to be quashed.

(7) Accordingly, the detention order passed by the 2nd respondent dated 18.05.2023 in Cr.MP.No.22/GOONDA/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.]
06.11.2023

AP



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High Court, Madras.



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

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