



HCP.No.1805/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1805/2023

M.Sripriya

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The District Collector
District Collector & District Magistrate
Thiruvarur District.

3.The Superintendent of Police
Thiruvarur, Thiruvarur District.

4.The Superintendent
Central Prison, Trichy.

5.The Inspector of Police
Nannilam Police Station.
Thiruvarur 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 entire records connected with the detention order of the 2nd respondent in COC.No.29/2023 TPDA No.7818 dated 29.03.2023 and quash the same and direct the respondents to produce the body or person of the detenu by name Muralidharan, S/o.Murugan, aged about 27 years old, now detained as "Goonda" at Central Prison, Trichy District before this Court and set him at liberty forthwith.

For Petitioner	: Mr.Swarnam J Rajagopalan
For Respondents	: Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

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

(1)The petitioner, wife of the detenu Muralidharan, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 29.03.2023 slapped on her husband, 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].



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(2) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

(3) Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail by relying upon the bail order granted to the accused in a similar case, suffers from non-application of mind.

(4) In paragraph No.4 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case since in a similar case, bail was granted to the detenu therein and relied upon an order passed by the learned Judicial Magistrate, Thiruthuraipoondi, in Cr.MP.No.9/2023 on 02.01.2023. On a perusal of the said order, this Court finds that the said order relates to release of the accused on bail u/s.167[2] of Cr.P.C., since the accused therein had been in prison for more than 65 days and not on merits. Therefore, it is not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out



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on bail suffers from non-application of mind, which vitiates the detention order.

(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 dealt with a situation where the Detention Order is passed without an application of mind. In case any of the reasons stated in the order of detention is non-existent or a material information is wrongly assumed, that will vitiate the Detention Order. In the instant case, the Detaining Authority has arrived at the subjective satisfaction that the detenu is likely to be released on bail by referring to a bail order granted to an accused in a similar case in Cr.MP.No.9/2023. However, the said bail was granted on the ground that accused is entitled to statutory bail and not on merits and therefore, the subjective satisfaction of the Detaining Authority that the detenu is likely to be released on bail suffers from non-application of mind. Hence, on the above grounds, the Detention Order is liable to be quashed.

(6)In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 29.03.2023 in COC.No.20/2023, is hereby set aside and



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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.

[SSSRJ] [SMJ]
16.10.2023

AP

Internet : Yes

To

- 1.The Additional Chief Secretary to Government,
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- 2.The District Collector
District Collector & District Magistrate
Thiruvarur District.
- 3.The Superintendent of Police
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- 5.The Inspector of Police
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Thiruvarur District.
- 6.The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.,
and
SUNDER MOHAN, J.,

AP

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