



*HCP.No.1828/2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.11.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1828/2023

Jaya

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Petitioner

Versus

1.The Secretary to Government  
Home, Prohibition and Excise Department  
Secretariat, Fort St George, Chennai-9.

2.The Commissioner of Police  
Greater Chennai  
O/o.The Commissioner of Police  
Vepery, Chennai 600007.

3.The Superintendent of Prison  
Central Prison, Puzhal  
Chennai.

4.State rep.by its  
The Inspector of Police  
D3 Ice House Police Station  
Chennai.

..

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 to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 06.06.2023 on the file of the 2<sup>nd</sup> respondent herein made in proceedings Memo No.21/BCDFGISSSV/2023 dated 06.06.2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner namely Vinoth, son of Suresh, aged 24 years before this Court and set the petitioner's son at liberty from detention now the petitioner's son detained at Central Prison, Puzhal, Chennai.

For Petitioner : Mr.B.Manoharan  
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.]**

- (1)The petitioner, mother of the detenu herein, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 06.06.2023 slapped on her son, 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.
- (3)Though several grounds are raised in the petition, the learned counsel for the petitioner contended that the similar case relied on by the Detaining



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Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail in the ground case, is not similar as the bail application in respect of the 1<sup>st</sup> petitioner in the similar case was dismissed and bail was granted to the 2<sup>nd</sup> petitioner considering the fact that he was involved in bailable offences. Hence, the similar case cited to arrive at the subjective satisfaction, is not similar and placing reliance on such order shows the non-application of mind on the part of the Detaining Authority.

(4) On a perusal of the Grounds of Detention, it is seen that the Detaining Authority had relied upon the orders of bail in similar case in CrI.MP.No.17123/2019 passed by the learned Principal Sessions Judge Chennai. However, a perusal of the said order in the Booklet in page No.339, would reveal that two accused had filed the above miscellaneous petition seeking bail. However, the learned Principal Sessions Judge, Chennai, had dismissed CrI.MP.No.17123/2019 insofar as the 1<sup>st</sup> petitioner is concerned and granted bail to the 2<sup>nd</sup> petitioner by observing the fact that the 2<sup>nd</sup> petitioner was involved in bailable offence. Therefore, the facts in the order relied upon by the Detaining Authority is not similar to the facts on hand. It is in the said circumstances, this Court



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finds that the subjective satisfaction arrived at by the Detaining Authority to hold that the detenu is likely to be released on bail by relying upon the said similar case, suffers from non-application of mind.

(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 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 case, 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***



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*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 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."*



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(6)Further, we also find that in the instant case, most of the pages found in the Booklet are in Hindi. Admittedly, the detenu's mother tongue is Tamil. It is not known as to why certain extraneous materials were supplied in Hindi. This is bound to confuse the detenu and deny the right to make effective representation.

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

(8)Accordingly, the detention order passed by the 2<sup>nd</sup> respondent dated 06.06.2023 in Memo.No.21/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.]  
07.11.2023

AP  
Internet: Yes



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To

- 1.The Secretary to Government  
Home, Prohibition and Excise Department  
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- 2.The Commissioner of Police  
Greater Chennai  
O/o.The Commissioner of Police  
Vepery, Chennai 600007.
- 3.The Superintendent of Prison  
Central Prison, Puzhal  
Chennai.
- 4.The Inspector of Police  
D3 Ice House Police Station  
Chennai.
- 5.The Public Prosecutor  
High Court, Madras.



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

AP

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