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H.C.P.No.2221 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2221 of 2022

Mrs.Priyanka

..

Petitioner/
Wife of the detenu

Vs.

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai – 600 009

2. The Commissioner of Police
Salem City

3. The Superintendent of Prison
Central Prison, Salem

4. The Inspector of Police
Annadanapatty Police Station
Salem 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 leading to the detention of the petitioner's husband namely Ranjith @ Ranjithkumar, aged

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about 28 years presently lodged in Central Prison, Salem and has been detained under Act 14 of 1982 as a Goonda vide detention order dated 22.09.2022 on the file of the 2nd respondent herein made in C.M.P.No.120/Goonda/Salem/2022 quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty.

For Petitioner : Mr.E.C.Ramesh
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by
Mr.Sylvester John
Advocate

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by wife of detenu assailing a 'preventive detention order dated 22.09.2022 bearing reference C.M.P.No.120/Goonda/Salem City/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.



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2. Impugned detention order has been made 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 No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are two adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.393 of 2022 on the file of Annadanapatty Police Station for the alleged offences under Sections 341, 392 read with Sections 397 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.



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4. Mr.E.C.Ramesh learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.Sylvester John, Advocate, for all respondents are before us.

5. In the support affidavit qua captioned HCP, several points/grounds have been raised/urged but in the hearing before us, learned counsel for petitioner predicated his campaign against the impugned detention order on one point and that one point turns on subjective satisfaction arrived at by the Detaining Authority qua imminent possibility of detenu being enlarged on bail. Elaborating on this submission, learned counsel submitted that an order dated 02.02.2019 in C.M.P.No.346 of 2019 on the file of Principal Sessions Judge, Salem in the case of one Vijayakumar, son of Ramesh, has been relied on saying the same is a similar case, to arrive at such subjective satisfaction but Vijaykumar's case bail order is not similar as alleged offences are vastly different.

6. Learned Prosecutor submits that two cases are broadly comparable as the alleged offences are broadly similar though not exactly similar.

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7. We had the benefit of perusing the bail order of learned Sessions Judge in Vijaykumar's case. A careful perusal of the bail order in Vijayakumar's case brings to light that in Vijayakumar case, the petitioner was detained under Goondas Act barely three months before the date of the bail petition and was released from detention. Such a facet is absent in the case on hand. Therefore, entirely different set of determinants /parameters have weighed in the mind of the learned Sessions Judge in exercising his discretion in favour of the grant of bail in Vijaykumar's case. Though learned petitioner counsel posited his submission on difference in offences, in this view of the matter, we have no hesitation in saying that comparison of the two cases is akin to comparing Apples and Oranges and therefore subjective satisfaction arrived at by the Detaining Authority is clearly flawed. This means that impugned detention order deserves to be dislodged.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 22.09.2022 bearing reference C.M.P.No.120/Goonda/Salem City/2022 made by the second respondent is set aside and the detenu Thiru.Ranjith@ Ranjithkumar, aged 28 years, son



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of Thiru.Vigneswaran is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

05.04.2023

Index : Yes

Speaking

Neutral Citation : Yes

gpa

P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Salem.

To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai – 600 009
2. The Commissioner of Police
Salem City
3. The Superintendent of Prison
Central Prison, Salem
4. The Inspector of Police
Annadanapatty Police Station
Salem District
5. The Public Prosecutor
Madras High Court, Chennai

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