



HCP.No.1909/2023

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.1909/2023

Chithra .. Petitioner

Versus

- 1.The State of Tamil Nadu rep.by
The Chief Secretary,
Department of Home, Prohibition and Excise,
Secretariat, Fort St George,
Chennai 600 009.
- 2.The Commissioner of Police/Detaining Authority
Coimbatore City,
Coimbatore.
- 3.The Superintendent of Prison
Central Prison, Coimbatore.
- 4.The Inspector of Police
E-1, Singanallur Police Station,
Singanallur, Coimbatore 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 relating to the detention order in C.No.80/G/IS/2022 dated 07.12.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and also direct the respondents to produce her husband K.Mani Prabhu @ Mani, S/o.Kumar, aged 28 years, now confined in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.Thiyagarajan B
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 K.Mani Prabhu @ Mani, aged 28 years, S/o.Kumar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 07.12.2022 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,



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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.

(3) Though several grounds are raised in the petition, the learned counsel for the petitioner contended that the bail order in the similar case relied on by the Detaining Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail, is not similar as the bail in that case was granted since the co-accused was released on bail. Thus, the learned counsel for the petitioner submits that there is total non-application of mind by the Detaining Authority while considering the similar case to hold that the detenu is likely to come on bail. The learned counsel further submitted that the detenu was arrested on 01.11.2022 and the order of detention was passed only on 07.12.2022. The learned counsel for the petitioner further pointed out that no bail application was filed by the detenu in the ground case.

(4) From a perusal of the Grounds of Detention, it is seen that the Detaining Authority had relied upon the order of bail in a case said to be similar in



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Crl.MP.No.3647 of 2020 passed by the learned Principal District and Sessions Judge, Coimbatore. It is seen from page No.179 of the booklet that the accused therein in the similar case was granted bail in Crl.MP.No.3647 of 2020 dated 06.01.2021 on the ground that the co-accused was released on bail by the same Court earlier. Thus the bail order in the case relied upon by the detaining authority was passed on the sole ground that the co-accused of the accused in the said case was granted bail. Therefore, that case cannot be said to be similar and hence, this Court finds that the subjective satisfaction arrived at by the Detaining Authority to hold that the detenu is likely to be released on bail, 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 cases, 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



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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, as regards the possibility of detenu coming out on bail, the Hon'ble Supreme Court held that the order of detention is liable to be quashed.

(6) 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 CrI.MP.No.3647 of 2020 which is not similar 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 ground, the Detention Order is liable to be quashed.

(7) In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 07.12.2022 in C.No.80/G/IS/2022 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., K.Mani Prabu @ Mani, aged 28 years, S/o.Kumar, is directed to be set at liberty forthwith unless he is required in connection with any other case.



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[S.S.S.R., J.] [S.M, J.]
16.10.2023

Internet: Yes
ars

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

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To

- 1.The Chief Secretary,
Department of Home, Prohibition and Excise,
Secretariat, Fort St George,
Chennai 600 009.
- 2.The Commissioner of Police/Detaining Authority
Coimbatore City,
Coimbatore.
- 3.The Superintendent of Prison
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- 4.The Inspector of Police
E-1, Singanallur Police Station,
Singanallur, Coimbatore District.
- 5.The Public Prosecutor
High Court, Madras.



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