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H.C.P.No.2026 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.2026 of 2023

Guna
W/o Kannan

..

Petitioner

v.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009

2. The Commissioner of Police
Salem City, Salem District

3. The Superintendent
Central Prison, Salem 636 007

4. State rep. by the Inspector of Police
Hasthampatty Police Station
Salem District
(Crime No.607 of 2023)

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Habeas Corpus, to call for the entire



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records leading to the detention of petitioner's husband, the detenu Thiru Kannan, aged 57, Son of Ramasamy, presently detained in Central Prison Salem, under Act 14/1982, branded as 'Goonda' vide the detention order dated 19.09.2023 in C.M.P.No.88/Goonda/Salem City/2023, on the file of the 2nd respondent herein, directing to produce the person or body of the Detenu Thiru.Kannan, aged 57, Son of Ramasamy, No.218/-B3, Sankar Nagar, Salem 636 007 before this Honble Court and thereafter set him at liberty from the Central Prison, Salem by set aside the above order.

For Petitioner :: Mr.B.Vasudevan

For Respondents :: Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind, Advocate

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

The petitioner, who is the wife of the detenu, namely, Kannan, aged 57 years, S/o Ramasamy, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 19.09.2023 slapped on her husband, branding him as 'Goonda' 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 14 of 1982).



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2. Heard the learned counsel appearing 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 appearing for the petitioner pointed out that the detaining authority has referred to the bail order granted to the detenu in the adverse case for arriving at the subjective satisfaction that the detenu is likely to be released on bail in the ground case, even though the bail application is still pending. On this score, the detention order is liable to be set aside.

4. It is seen from the order relied upon by the detaining authority that the detenu was granted bail in the adverse case recording the fact that investigation was not pending in that case and there was no objection by the learned Public Prosecutor. Apart from that, this Court is also convinced that the physical condition of the detenu is so bad that he may not survive without proper treatment in a regular hospital. Therefore, this Court is of the view that the order of detention can be set aside, taking note of the fact that the detenu is suffering from multiple disorders and requires immediate



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and continuous treatment in a multispeciality hospital.

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5. In view of the aforesaid reasons, the detention order passed by the 2nd respondent dated 19.09.2023 in C.M.P.No.88/Goonda/Salem City/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Kannan, S/o Ramasamy, aged 57 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

13.12.2023

SS

To

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

2. The Commissioner of Police
Salem City, Salem District

3. The Superintendent
Central Prison
Salem 636 007



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4. The Inspector of Police
Hasthampatty Police Station
Salem District

5. The Public Prosecutor
High Court, Madras



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S.S.SUNDAR,J.

AND

SUNDER MOHAN,J.

SS

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