



H.C.P.No.2311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM :

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

H.C.P.No.2311 of 2023

Vasuki
W/o Muthuraman .. Petitioner

v.

1. The Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Fort St.George
Chennai 600 009
2. The Commissioner of Police / Detaining Authority
Tiruppur City
Tiruppur District
3. The Superintendent of Prison
Central Prison - Coimbatore
Coimbatore District
4. State rep.by its The Inspector of Police
Velampalayam Police Station
Tiruppur District .. Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of 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 26.04.2023 on the file of the second respondent herein made in proceedings Memo C.No.19/G/IS/Tiruppur City/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely Rajkumar, S/o Sekar, aged 25 years, before this Hon'ble High Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner :: Mr.W.Camyles Gandhi

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 aunty of the detenu, namely, Rajkumar, aged 25 years, S/o Sekar, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 26.04.2023 slapped on her son, 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



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(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 this petition, the learned counsel for the petitioner confined his argument to the point that the subjective satisfaction of the detaining authority that there is a real possibility of the detenu coming out on bail suffers from non-application of mind, as the sponsoring authority did not place either the special report or the 161 statement obtained from the relative of the detenu. Therefore, the detention order is vitiated.

4. On perusal of the records, we find that neither the special report of the sponsoring authority nor the 161 statement from the relative of the detenu was placed before the detaining authority. In such circumstances, a mere ipse dixit statement of the detaining authority in the detention order that the family members are taking appropriate steps to get bail for the



detenu, is wholly without any material. Hence, this Court is of the view that the subjective satisfaction arrived at by the detaining authority suffers from non-application of mind, which vitiates the order of detention, as held by 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**. It is relevant to extract paragraphs No.10 and 11 of the said judgment of the Hon'ble Supreme Court, as follows:-

“10.In our opinion, if details are given by the 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



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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."

In view of the ratio laid down by the Hon'ble Supreme Court, the detention order is liable to be quashed.

5. Accordingly, the detention order passed by the 2nd respondent dated 26.04.2023 in C.No.19/G/IS/Tiruppur City/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Rajkumar, S/o Sekar, aged 25 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
20.12.2023

SS

To

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Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009



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3. The Superintendent of Prison

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5. The Public Prosecutor

High Court, Madras



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SS

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