



WEB COPY



HCP.No.25 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.25 of 2024

Durgadevi

... Petitioner

Vs.

1.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,
Greater Chennai, Chennai.

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

4.The Inspector of Police,
K-3, Aminjikarai Police Station,
Chennai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records, relating to the detention order dated 02.11.2023 passed by the second respondent in No.537/BCDFGISSSV/2023 and quash the same and direct the



HCP.No.25 of 2024

respondents herein to produce the petitioner's husband Madhan @ Madhankumar, aged about 35 years, S/o.Manoharan, who is presently undergoing detention in the Central Prison, Puzhal, before this Court and set him at liberty,

For Petitioner : Mr.G.Gayathri

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

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

The petitioner herein, who is the wife of the detenu namely Madhan @ Madhankumar, aged about 35 years, S/o. Manoharan, has come forward with this petition challenging the detention order passed by the second respondent dated 02.11.2023 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



HCP.No.25 of 2024

Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982

[Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that in the grounds of detention, the Detaining Authority has stated that the arrest intimation was given to the detenu's friend namely Saravanan on the day of the detenu's arrest. However, the remand order discloses that the arrest intimation was given to the detenu's wife. Hence, the subjective satisfaction arrived at by the Detaining Authority is one of a non-application of mind.

4. On a perusal of the Booklet, this Court finds that in the remand order, it is stated that the arrest intimation was given to the detenu's wife, however, in the grounds of detention, it is mentioned that the arrest intimation was given to the detenu's friend on the date of arrest. Considering these aspects, this Court finds that the subjective



HCP.No.25 of 2024

satisfaction arrived at by the Detaining Authority 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***', had dealt with a situation where the Detention Order is passed without an application of mind. In case, any of the reasons stated in the order of detention is non-existent or a material information is wrongly assumed, that will 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 paragraph Nos.10 and 11 of the said judgment of the Hon'ble Supreme Court:-

“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



HCP.No.25 of 2024

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.”

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.



HCP.No.25 of 2024

WEB COPY

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 02.11.2023 in No.537/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Madhan @ Madhankumar, aged about 35 years, S/o. Manoharan, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R., J]

[S.M., J]

12.03.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Sni



HCP.No.25 of 2024

WEB COPY To

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



WEB COPY



HCP.No.25 of 2024

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

Sni

H.C.P.No.25 of 2024

12.03.2024