



HCP.No.108 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

H.C.P.No.108 of 2024

Tamilarasi

.. Petitioner

Vs.

- 1.The Additional Secretary to Government
of India, Ministry of Consumer Affairs,
Food and Public Distribution, Room No.270,
Krishi Bhavan, New Delhi 110 001.
- 2.The Principal Secretary to the Government,
Co-operation, Food and Consumer Protection
Department, 2nd Floor, Namakkal Kavignar
Maligai, Secretariat, Chennai 600 009.
- 3.The District Magistrate and District Collector,
O/o. The District Magistrate and District Collector,
Thiruvallur District, Thiruvallur.
- 4.The Superintendent of Police,
Thiruvallur District.
- 5.The Superintendent of Prison,
Central Prison-II, Puzhal, Chennai.



HCP.No.108 of 2024

6.The Inspector of Police,
Civil Supplies CID, Thiruvallur Unit,
Thiruvallur District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the Detention Order passed by the third respondent made in his proceedings in PBMMSECA No.02/2023 dated 09.12.2023 in detaining the detention under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) as a Black Marketer and quash the same and direct the respondents herein to produce the petitioner's husband namely Anandan, S/o.Mani, aged 38 years, (who is presently undergoing detention in the Central Prison-II, Puzhal, Chennai) before this Court and set him at liberty.

For Petitioner : Mr.A.Leon Victor

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

ORDER

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

The petitioner, who is the wife of the detenu Anandan, S/o Mani, aged 38 years,, has come forward with this petition challenging the detention order passed by the third respondent dated 09.12.2023 slapped on her



HCP.No.108 of 2024

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, 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 pointed out that the Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail. It is his submission that the case relied upon by the Detaining Authority is not similar to the present case, as the bail was granted in favour of the accused therein by recording the fact that there was no adverse case as against the accused therein.

4. On a perusal of the Booklet, this Court finds that the bail application filed by the detenu for similar case was dismissed in CMP



HCP.No.108 of 2024

No.19428 of 2023 dated 20.11.2023. On perusal of the Booklet, this Court also finds that the bail order relied upon by the Detaining Authority in C.M.P.No.1665 of 2018 CrI.M.P.No.1665 of 2018, dated 10.05.2018, co-accused was granted bail. Considering the nature of the bail order in the similar case relied upon by the Detaining Authority and the case on hand, this Court finds that the subjective satisfaction of the Detaining Authority that the detenu is also 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 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 paragraphs 10 and 11 of the said judgment of the Hon'ble



Supreme Court:-

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“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 imminent possibility of the accused coming out on bail and there was no reliable material to this effect.



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HCP.No.108 of 2024

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.

7. Accordingly, the detention order passed by the third respondent in PBMMSECA No.02/2023 dated 09.12.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Anandan, aged 38 years, S/o.Mani, 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.)
09.02.2024

NCC : Yes / No
Index : Yes / No

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To

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Food and Public Distribution, Room No.270,
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HCP.No.108 of 2024

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3. The Additional Public Prosecutor,
Madras High Court, Chennai.



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HCP.No.108 of 2024

M.S.RAMESH,J.
and
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H.C.P.No.108 of 2024

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