



HCP.No.115 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM :

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

H.C.P.No.115 of 2024

Valli

... Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. by its Principal Secretary,
Home, Prohibition and Excise Department,
St. George,
Chennai – 600 009.

2. The District Magistrate and District Collector,
Ranipet District,
Ranipet.

3. The Superintendent of Police,
O/o. Superintendent Office,
Ranipet, Ranipet District.

4. The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam.

5. The Superintendent,
Central Prison,
Salem.

... Respondents



HCP.No.115 of 2024

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the entire records culminating in the passing of the order of detention the petitioner's son of the defence under Act 14 of 1982 as Drug Offender vide detention order in B3/D.O.No.43/2023 dated 06.10.2023, on the file of the 2nd respondent herein and quash the same as illegal and consequently direct the respondents herein to produce the body and person of the detenu by name Sureshkumar @ Kuthirai Suresh, aged about 28 years, before this Court and set him at liberty from the detention now contained in Central Prison, Salem.

For Petitioner : Mr.A.Vijayasankar

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 mother of the detenu namely Sureshkumar @ Kuthirai Suresh, aged about 28 years, S/o. Sugumar, has come forward with this petition challenging the detention order passed by the second respondent dated 06.10.2023 slapped on her son, branding him as "Drug Offender" under the Tamil Nadu Prevention of Dangerous



HCP.No.115 of 2024

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].

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 submitted that there is total non-application of mind by the Detaining Authority in the present case, as the observation of the Detaining Authority that the relatives of the detenu are taking steps to file bail application for the detenu, is not supported by any material or the Special Report of the Sponsoring Authority, having reference to such fact.

4. Even though it is admitted that the bail application was not filed by the detenu in the ground case, the Detaining Authority has observed that the relatives of the detenu are taking steps to file bail application for the detenu. However, this observation is not supported by any material. Even,



HCP.No.115 of 2024

there is no Special Report of the Sponsoring Authority giving reference to such a fact. In such circumstances, this Court finds that the subjective satisfaction of the Detaining Authority suffers from non-application of mind and the statements found in the Detention Order are mere *ipsi dixit* without any material.

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



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HCP.No.115 of 2024

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. 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.115 of 2024

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7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 06.10.2023 in B3/D.O.No.43/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sureshkumar @ Kuthirai Suresh, aged about 28 years, S/o. Sugumar, 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]

07.03.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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HCP.No.115 of 2024

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To

- 1.The Principal Secretary,
Home, Prohibition and Excise Department,
St.George, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Ranipet District, Ranipet.
- 3.The Superintendent of Police,
O/o. Superintendent Office,
Ranipet, Ranipet District.
- 4.The Inspector of Police,
Arakkonam Town Police Station,
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- 5.The Superintendent,
Central Prison, Salem.
- 6.The Public Prosecutor,
High Court, Madras.



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HCP.No.115 of 2024

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H.C.P.No.115 of 2024

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