



WEB COPY



HCP.No.104 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

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

H.C.P.No.104 of 2024

Amulu

.. Petitioner

Vs.

1.The Additional Secretary to Government
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2. The Commissioner of Police,
Greater Chennai.

3. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai-66.

4.The Inspector of Police,
Law and Order,
C-5, Kothavalchavadi Police Station,
Chennai

.. 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 second respondent dated 04.10.2023 in



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Memo No.442/BCDFGISSSV/2023 against the petitioner's husband Karthik @ Dilip Karthik, Male, aged 35 years, S/o Maran, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

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For Petitioner : Mr.S.Senthilkumar

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 Karthik @ Dilip Karthik, aged 35 years, S/o Maran has come forward with this petition challenging the detention order passed by the second respondent dated 04.10.2023 slapped on her 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



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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:-

“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



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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.

7. Accordingly, the detention order passed by the second respondent



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in 442/BCDFGISSSV/2023 DAED 04.10.2023, is hereby set aside and the

Habeas Corpus Petition is allowed. The detenu viz., Karthick @ Dilip Karthick, aged 35 years, S/o.Maran, 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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Central Prison, Puzhal,
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C-5, Kothavalchavadi Police Station,
Chennai
5. The Public Prosecutor,
High Court, Chennai.



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

SR

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