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HCP.No.166 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM :

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

**H.C.P.No.166 of 2024**

Chandran

... Petitioner

***Vs.***

1.State of Tamil Nadu,  
Rep. by The Additional Chief Secretary,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,  
Greater Chennai,  
Vepery, Chennai – 600 007.

3.The Inspector of Police,  
Team 28, Job Racket Prevention Wing, CCB-I,  
Chennai.

4.The Superintendent of Prison,  
Special Prison for Women, Puzhal,  
Chennai – 600 066.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records relating to the detention order in Memo No.670/BCDFGISSSV/2023 dated 16.12.2023



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passed by the 2<sup>nd</sup> respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's daughter/detenué namely Shyamaleeswari, Female, aged about 34 years, W/o.Karthikeyan, now confined in Special Prison for Women, Puzhal, Chennai, before this Court and set the petitioner's daughter Shyamaleeswari, aged about 34 years, W/o.Karthikeyan, at liberty forthwith.

For Petitioner : Mr.R.Vivekananthan

For Respondents : Mr.A.Gokulakrishnan,  
Additional Public Prosecutor

### **ORDER**

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

The petitioner herein, who is the father of the detenué namely Shyamaleeswari, aged about 34 years, W/o.Karthikeyan, has come forward with this petition challenging the detention order passed by the second respondent dated 16.12.2023 slapped on her daughter, branding her 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 [Tamil Nadu Act 14 of 1982].



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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 this petition, the learned counsel for the petitioner focused mainly on the ground that the subjective satisfaction of the Detaining Authority that the relatives of the detainee are taking steps to take out the detainee on bail, suffers from non-application of mind, as the statement made under Section 161 Cr.P.C., said to have been made by the detainee's relative before the Sponsoring Authority, is not dated. Hence, the learned counsel for the petitioner raised a *bona fide* doubt as to when this statement was obtained from the detainee's relative. The learned counsel further pointed out that, unless the statement relied upon by the Sponsoring Authority is immediately before the Detaining Authority, it may not have relevance and hence, the subjective satisfaction of the Detaining Authority based on this undated statement, would vitiate the Detention Order.

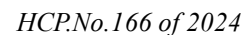
4. On a perusal of the booklet, it is seen that the statement obtained by the Sponsoring Authority from the detainee's relative, stating that they



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are trying to file bail application to bring out the detainee on bail, is not dated. When the statement obtained by the Sponsoring Authority from the detainee's relative stating that they are planning to file bail application to bring out the detainee on bail is not dated, the veracity of such statement becomes doubtful. The compelling necessity to detain the detainee would also depend on when the statement was obtained. In the absence of the date, the compelling necessity to detain, becomes suspect. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority based on such undated material, 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



*“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. Hence, the



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*detention order in question cannot be sustained.”*

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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 on 16.12.2023 in No.670/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenue namely Shyamaleeswari, Female, aged about 34 years, W/o.Karthikeyan, is directed to be set at liberty forthwith, unless her confinement is required in connection with any other case.

[M.S.R., J]

[S.M., J]

19.07.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

***Sni***



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To

1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,  
Greater Chennai,  
Vepery, Chennai – 600 007.

3.The Inspector of Police,  
Team 28, Job Racket Prevention Wing, CCB-I,  
Chennai.

4.The Superintendent of Prison,  
Special Prison for Women, Puzhal,  
Chennai – 600 066.

5.The Public Prosecutor,  
High Court, Madras.



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

*Sni*

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