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H.C.P.No.303 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.303 of 2024

K.Selvam

... Petitioner

Vs.

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

2.The Commissioner of Police
Chennai City,
Office of the Commissioner of Police
Vepery, Chennai 600 007

3.The Superintendent of Prison,
Central Prison
Puzhal, Chennai 600 066

4.The Inspector of Police,
K2, Ayanavaram Police Station
Chennai

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Habeas Corpus, calling for the records records in No.630/BCDFGISSSV/2023 dated 27.11.2023 on the file of second respondent herein and set aside the same as illegal and produce the detenu Chinrasu @ Salaman, Son of Selvam, aged about 24 years, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For petitioner : Mr. Ilayaraja Kandasamy

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

ORDER

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

The petitioner herein, who is the father of the detenu namely Chinrasu @ Salaman, aged about 24 years, S/o.Selvam, has come forward with this petition challenging the detention order passed by the second respondent dated 27.11.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law



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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 were raised in the petition, we are of the view that the detention order is liable to be quashed on the ground that the order of the detaining authority suffers from non application of mind. It is seen from the grounds of detention that the Detaining Authority has stated that the sponsoring authority had mentioned that the relatives are taking steps to take the detenu out on bail. From the reading of the Sponsoring Authority's report it is seen that he had not stated that the relatives of the detenu are taking steps to file the bail application.

4. Therefore, the observation made by the Detaining Authority is without any basis and the subjective satisfaction arrived at by the Detaining



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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 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



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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



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is liable to be quashed.

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7. Accordingly, the detention order passed by the second respondent in No.630/BCDFGISSSV/2023 dated 27.11.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Chinrasu @ Salaman, aged about 24 years, S/o.Selvam, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R., J]

[S.M., J]

15.04.2024

Index: Yes/No

Neutral Citation: Yes/No

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To

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

2.The Commissioner of Police
Chennai City

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Office of the Commissioner of Police
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3.The Superintendent of Prison
Central Prison
Puzhal, Chennai 600 066

4.The Inspector of Police,
K2, Ayanavaram Police Station
Chennai

5.The Public Prosecutor
High Court, Madras

6. The Joint Secretary
Law and Order Department
Secretariat, Chennai.



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