



WEB COPY



HCP.No.337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM :

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

H.C.P.No.337 of 2024

Murugammal

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by Secretary of State,
Prohibition & Excise Department,
St.George Fort,
Chennai – 600 009.

2.The District Collector &
District Magistrate,
Chengalpet District.

3.The Superintendent of Police,
Chengalpet District,
Tamilnadu – 603 002.

4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai – 600 066.



HCP.No.337 of 2024

5. Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpet District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling upon the production of the records relating to the detention order dated 07.12.2023 made in detention order CPT.No.72/2023 passed by the 2nd respondent herein quash the same and direct the respondents to produce the body or person of the Petitioner's Son Saravanan Son of Kumar aged about 29 years branded as GOONDA and now confined in Central Prison, Puzhal, Chennai before this Hon'ble Court and set him at liberty forthwith.

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

ORDER

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

The petitioner herein, who is the mother of the detenu Saravanan, aged 29 years, S/o.Kumar, has come forward with this petition challenging the detention order passed by the second respondent dated 07.12.2023



HCP.No.337 of 2024

slapped on her son, branding him 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].

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 pointed out that the bail order relied upon by the Detaining Authority is not similar to the case on hand, by referring to the fact that bail was granted to the accused therein mainly on the ground that the co-accused was granted bail. Therefore, the learned counsel submitted 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.



HCP.No.337 of 2024

4. On a perusal of the Booklet, this Court finds that, in the similar case relied upon by the Detaining Authority, i.e., Crl.M.P.No.224 of 2022, dated 17.02.2022, the accused therein was granted bail mainly on the ground that the co-accused had been granted bail. Hence, this Court is of the view that the subjective satisfaction of the Detaining Authority that the detenu is also likely to be released on bail, by relying upon the aforesaid similar case, 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:-



WEB COPY



HCP.No.337 of 2024

“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 detention order in question cannot be sustained.”



HCP.No.337 of 2024

WEB COPY

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 07.12.2023 in CPT.No.72/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Saravanan, aged 29 years, S/o.Kumar, 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]

05.04.2024

Index: Yes/No

Tsg



HCP.No.337 of 2024

To

WEB COPY

1.State of Tamil Nadu,
Rep. by Secretary of State,
Prohibition & Excise Department,
St.George Fort,
Chennai – 600 009.

2.The District Collector &
District Magistrate,
Chengalpet District.

3.The Superintendent of Police,
Chengalpet District,
Tamilnadu – 603 002.

4.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai – 600 066.

5.Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpet District.

6.The Public Prosecutor,
High Court, Madras.



WEB COPY



HCP.No.337 of 2024

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

Tsg

H.C.P.No.337 of 2024

05.04.2024