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H.C.P.No.310 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM :

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

H.C.P.No.310 of 2024

Onitta

... Petitioner

Vs.

1.The Secretary to the Government
Home Prohibition & Excise Department
Secretariat
Chennai 600 009

2.District Magistrate and District Collector
Tiruppur District
Tiruppur

3.The Superintendent of Police
Tiruppur
Tiruppur District

4.The Superintendent
Central Prison
Coimbatore

5.State Rep By:-
The Inspector of Police
Vellakovil Police Station
Tiruppur District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the 2nd respondent dated 30.12.2023 in Cr.M.P.No.72/GOONDA/2023 against the petitioner husband EDISONRAJ, M/23 years, son of Jayabal, who is confined at Central Prison, Coimbatore and set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.A.Saranraj

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

ORDER

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

The petitioner herein, who is the wife of the detenu viz. Edisonraj, aged about 23 years, S/o.Jayabal, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 30.12.2023 slapped on her husband, 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].



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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. One of the requisites for the detaining authority to arrive at a subjective satisfaction that the detenu is likely to come out on bail is like drawing an inference that the detenu has either filed a bail application which is said to be pending or that he is likely to file a bail application or in the alternate, his relatives are taking steps to file such an application. All these aspects are conspicuously absent in the detention order and therefore the consequential inference drawn by the detaining authority that the detenu is likely to come out on bail, suffers from non application of mind.

4. 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,



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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 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



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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.”

5. 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.

6. Hence, for the aforesaid reasons, the detention order passed by the 2nd respondent on 30.12.2023 in Cr.M.P.No.72/GOONDA/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Edisonraj, S/o.Jayabal, aged about 23 years, confined at Central Prison, Coimbatore, 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]
10.06.2024

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Index : Yes / No
Neutral Citation



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6.The Public Prosecutor
High Court of Madras
Chennai 600 104

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