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H.C.P.No.323 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

and

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.323 of 2024

Bhagyalakshmi

... Petitioner

Vs.

1.State of Tamilnadu

Rep. by the Additional Chief Secretary
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Commissioner of Police

Greater Chennai
Vepery, Chennai 600 007

3.The Inspector of Police

H-1, Washermenpet Police Station
Chennai

4.The Superintendent of Prison,

Central Prison -II
Puzhal, Chennai 600 066

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to call for the records relating to the detention order in Memo



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No.45/BCDFGISSSV/2024 dated 23.01.2024 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Thiru.Manojkumar @ Manoranjan, S/o.Ramakrishnan, aged about 37 years, the detenu now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Thiru.Manojkumar @ Manoranjan, S/o.Ramakrishnan, aged about 37 years the detenu herein at liberty.

For Petitioner : Mr.R.Muthukumar

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

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

The petitioner, who is the wife of the detenu viz., Manojkumar @ Manoranjan, Male, aged 37 years, S/o.Ramakrishnan, confined at Central prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 23.01.2024 slapped on her husband, branding him as "Drug Offender" 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].

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2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail by relying upon the bail order granted to the accused in a similar case, suffers from non-application of mind.

4. On a perusal, it is seen that in paragraph 4 of the Grounds of Detention, the Detaining Authority has stated that there is a possibility of the detenu coming out on bail in the ground case since in a similar case i.e. in CrI.M.P.No.5272 of 2023, bail was granted to the accused therein. On a perusal of the said order, in page No.71 of the Booklet Volume II, this Court finds that the said order relates to release of the accused on bail u/s.167[2] of Cr.P.C. and the bail was granted to the accused therein since he had been in prison for 62 days and not on merits. Therefore, it is



not a similar case and the subjective satisfaction of the Detaining Authority, regarding the possibility of the detenu coming out on bail suffers from non-application of mind, which vitiates the detention order. Hence, on this ground, the detention order is liable to be quashed.

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 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 is liable to be quashed.



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7. Accordingly, the detention order passed by the second respondent, in No.45/BCDFGISSSV/2024, dated 23.01.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Manojkumar @ Manoranjan, aged 37 years, S/o.Ramakrishnan, confined at Central prison, Puzhal, Chennai 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]
18.06.2024

Index: Yes/No
Neutral Citation

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To

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

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

3.The Inspector of Police
H-1, Washermenpet Police Station
Chennai



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

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

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



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