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H.C.P.No.336 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.336 of 2024

M.Poongothai

... Petitioner/wife of the detenu

Vs.

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

2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.

3.The Superintendent of Police,
Cuddalore District,
Cuddalore.

4.The Superintendent,
Central Prison, Cuddalore.

5.The Inspector of Police,
Annamalai Nagar Police Station,
Cuddalore District.

... Respondents



H.C.P.No.336 of 2024

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 passed by the second respondent pertaining to the order made in C3/D.O./07/2024, dated 20.01.2024 in detaining the detenu under 2 (F) of Tamil Nadu Act 14 of 1982, as a Goonda and quash the same and direct the respondent to produce the detenu Mukkuttu Murugan @ Murugan, son of Balakrishnan, aged about 47 years, who is detained at Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.R.Silambarasan

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, who is the wife of the detenu viz., Mukkuttu Murugan @ Murugan, son of Balakrishnan, aged about 47 years, detained at Central Prison, Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent dated 20.01.2024 slapped on her husband, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,



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Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].

2. Heard the learned counsel for the petitioner and 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 Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail. It is his submission that the similar case relied upon by the detaining authority in the grounds of detention is different from the copy of the similar case in the booklet furnished to the detenue.

4. On a perusal of the Booklet, this Court finds that the similar case relied upon by the detaining authority in the grounds of detention pertains to an order passed in CrI.M.P.No.5238 of 2022 dated 03.09.2022, whereas the similar case supplied to the detenue, in page 141 of Volume II, is in connection with CrI.M.P.No.364 of 2021 dated



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02.06.2021. As such, the reference to the similar case, without supplying the copy, 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 paragraphs 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.

7. Accordingly, the detention order passed by the second



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respondent in C3/D.O./07/2024, dated 20.01.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mukkuttu Murugan @ Murugan, son of Balakrishnan, aged about 47 years, detained at Central Prison, Cuddalore, 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]

14.06.2024

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

Anu

To

- 1.The Secretary to Government, Home,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Cuddalore District,
Cuddalore.
- 3.The Superintendent of Police,
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5. The Inspector of Police,
Annamalai Nagar Police Station,
Cuddalore District.

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

7. The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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