



HCP.No.355 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

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

H.C.P.No.355 of 2024

M.Vasu

...Petitioner/Father of Detenu

Vs.

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department, Secretariat,
Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai Office of the Commissioner of Police,
Vepery, Chennai – 600 007.
- 3.The Inspector of Police,
V-3, J.J. Nagar Police Station,
Chennai District.
- 4.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated: 05.07.2023 in B.C.D.F.G.I.S.S.S.V.No.287/2023, against the petitioner's son Jeeva son of Vasu aged about 22 years who is confined at Central Prison, Puzhal, Chennai and set aside the same and the direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : M/S.Siva Kumar

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

ORDER

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

The petitioner herein, who is the father of the detenu viz.,Jeeva son of Vasu aged about 22 years who is confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 05.07.2023 slapped on his son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders,



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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 points 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. The Detaining Authority had relied upon an order passed in CrI.M.P. No.19198 of 2021 by this Court to infer that bail is likely to be granted to the detenu. However, on perusal of the order passed in CrI.M.P.No.19198 of 2021 dated 27.10.2021, this Court finds that there was only one previous case against the accused therein and hence, the bail was granted to him, whereas, in



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the instant case, the detenu has three adverse cases. Therefore, the said order relied upon by the Detaining Authority to infer that in similar cases bail has been granted, suffers from non application of mind, since the accused therein was not on a similar footing as that of the detenu. This issue is also covered by the Hon'ble Supreme Court in ***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another*** reported in **2011 [5] SCC 244**. The relevant observations are as follows:-

"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



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*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."*

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. In view of the aforesaid reason, the detention order passed by the second respondent dated 05.07.2023 in B.C.D.F.G.I.S.S.S.V.No.287/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jeeva S/o.Vasu aged about 22 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.



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[M.S.R., J] [S.M., J]
26.03.2024

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To

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- 5.The Public Prosecutor,
High Court, Madras.



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