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H.C.P.No.455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.455 of 2024

P.Saravanan

... Petitioner

Vs.

1.The Principal Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Magistrate Cum District Collector,
Collectorate,
Thiruvallur Taluk & District.

3.The Superintendent of Police,
Thiruvallur,
Thiruvallur Taluk & District.

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

5.The Inspector of Police,
B-6, Mappedu Police Station,
Thiruvallur,
Thiruvallur Taluk & District.

... Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Habeas Corpus, to direct the respondents herein to produce the detenu, Mr.Mukindar Amarnath, aged 28 years confined at Central Prison II Puzhal, S/o.Saravanan, the petitioner herein, under impugned detention order BCDFGISSSV.No.01/2024, dated 04.01.2024 issued by the second respondent, before this Court and set him at liberty.

For Petitioner : Mr.T.R.Shanmugam

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

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

The petitioner, who is the father of the detenu viz., Mukindar Amarnath, aged 28 years, S/o.Saravanan, confined at Central Prison II Puzhal, has come forward with this petition challenging the detention order passed by the second respondent dated 04.01.2024 slapped on his son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders,



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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 as the detaining authority, in the grounds of detention, has not made any statement as regards the detenu is likely to come out on bail.

4. On a perusal of the Booklet, this Court finds that though the detaining authority has observed in the grounds of detention that the detenu is in custody and has not filed any bail application, he has not arrived at a subjective satisfaction that the detenu is likely to come out on bail. In the absence of such satisfaction, the detention order is vitiated and liable to be quashed.



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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



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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 respondent in BCDFGISSSV.No.01/2024, dated 04.01.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz.,



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Mukindar Amarnath, aged 28 years, S/o.Saravanan, confined at Central Prison II Puzhal, 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]

06.06.2024

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

Anu

To

1.The Principal Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Magistrate Cum District Collector,
Collectorate,
Thiruvallur Taluk & District.

3.The Superintendent of Police,
Thiruvallur,
Thiruvallur Taluk & District.

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



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5. The Inspector of Police,
B-6, Mappedu Police Station,
Thiruvallur,
Thiruvallur Taluk & 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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