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HCP.No.475 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM :

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

H.C.P.No.475 of 2024

Lakshmi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its 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 of Prison,
Central Prison, Cuddalore.

5.The Inspector of Police,
Mandarakuppam Police Station,
Cuddalore District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, to call for the records pertaining to the



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detention order dated 20.10.2023 in C3/D.O./68/2023 passed by the 2nd respondent and issue direction to produce the body of the detenu namely Sudhakar, S/o.Premkumar, aged about 25 years, presently confined at Central Prison, Cuddalore, before this Court and set him at liberty.

For Petitioner : Mr.D.Lakshmipathy

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 mother of the detenu namely Sudhakar, aged about 25 years, S/o.Premkumar, has come forward with this petition challenging the detention order passed by the second respondent dated 20.10.2023 slapped on her son, 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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his arguments on the ground that the Detaining Authority has relied upon the order passed in CrI.M.P.No.4791 of 2018 dated 28.09.2018 and came to the conclusion that in a similar case, bail has been granted and that there is a likelihood of the detenu also to be released on bail. The learned counsel for the petitioner further submitted that the offences in the order relied upon by the Detaining Authority in the grounds of detention and in the order copy available in the booklet are not similar and therefore, there is a non-application of mind on the part of the Detaining Authority.

4. On a perusal of the Grounds of Detention, it is seen that in the order that was relied upon by the Detaining Authority in CrI.M.P.No.4791 of 2018 dated 28.09.2018, the accused therein was enlarged on bail for the offences under Sections 294(b), 324 and 307 of IPC, however, on perusal



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of the booklet, it is seen that the accused therein was enlarged on bail for the offences under Sections 147, 148, 294(b), 324 and 302 of IPC. Further, in the present case, the offences involved are under Sections 294(b), 323, 506(ii) and 307 of IPC. It is in the said circumstances, this Court finds that the subjective satisfaction arrived at by the Detaining Authority suffers from non-application of mind, as the offences mentioned in the grounds of detention and the booklet in the similar case, are distinctive, as well as the offences involved in the similar case from the detenu's case are also different. Hence, on the above 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



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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



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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 on 20.10.2023 in C3/D.O./68/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sudhakar, aged about 25 years, S/o.Premkumar, 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]

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
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- 3.The Superintendent of Police,
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Mandarakuppam Police Station,
Cuddalore District.
- 6.The Public Prosecutor,
High Court, Madras.



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