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H.C.P.No.606 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.606 of 2024

Abdul Saleem

...Petitioner / father of the detenue

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
No.132, EVK Sampath Road,
Vepery, Chennai-600 007.

3.The Superintendent,
Central Prison Puzhal,
Chennai-600 066.

4.The Inspector of Police,
P-2, Otteri Police Station,
Otteri, Chennai-600 012.

...Respondents



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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the records in connection with detention order passed by the second respondent in No.485/BCDFGISSSV of 2023 dated 17.10.2023 and set aside the same and direct the respondents to produce the detenu before this Court i.e. the body of Thiru Fardeen, son of Abdul Saleem. The detenu herein now confined in Central Prison, Puzhal, Chennai and set him at liberty.

For Petitioner : Mr.M.Mohammed Saifulla

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, father of the detenu viz., Fardeen, son of Abdul Saleem, confined at Central Prison, Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 17.10.2023 slapped on her son, branding him as "Goonda" 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



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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 are raised in the petition, the learned counsel for the petitioner contended that detention order cannot be legally sustained as the same has been passed without any authority.

3. By invoking powers conferred by Sub-Section (1) of Section 3 of the Tamil Nadu Act 14 of 1982, the detention order dated 17.10.2023 has been passed. In the said detention order, the Government had conferred powers on the detaining authority under Sub Section (2) of Section 3 of the said Act in G.O.(D) No.181, Home, Prohibition and Excise (XVI) Department, dated 13.07.2023. As per proviso to Section 3(2) of the Tamil Nadu Act 14 of 1982, such delegation of power shall not exceed three months period. Apparently, the detention order has been passed after the expiry of 3 months from 13.07.2023, the date on which the powers were



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delegated to the detaining authority. There is no reference in the detention order as to whether such a power has been extended after the expiry of three months. As such, consequential detention order has been passed without any authority and hence cannot be legally sustained.

4. In view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.

5. Accordingly, the detention order passed by the 2nd respondent dated 17.10.2023 in No.485/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Fardeen, son of Abdul Saleem, 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]
27.03.2024

Anu

Index : Yes / No

Neutral Citation : Yes / No



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2.The Commissioner of Police,
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No.132, EVK Sampath Road,
Vepery, Chennai-600 007.

3.The Superintendent,
Central Prison Puzhal,
Chennai-600 066.

4.The Inspector of Police,
P-2, Otteri Police Station,
Otteri, Chennai-600 012.

5.The Public Prosecutor,
High Court, Madras.

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



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M.S.RAMESH, J.
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