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HCP.No.667 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM :

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

H.C.P.No.667 of 2024

Meena

... Petitioner/mother of the detenu

Vs.

1.The Secretary to the Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai – 600 009.

2.Office of the Commissioner of Police/
Detaining Authority,
Tiruppur City,
Tiruppur District.

3.The Superintendent,
Central Prison,
Coimbatore.

4.State Rep By:-
The Inspector of Police,
Nallur Police Station,
Tiruppur District.

... 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 2nd Respondent dated 07.02.2024 in C.No.07/I.T.O/IS/Tiruppur City/2024 against the petitioner son Suresh @ Raja, M/35 Years, Son of Murugesan, who is confined at Central Prison, Coimbatore and set aside the same and consequently direct the Respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.A.Saranraj

For Respondents : A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the mother of the detenu viz., Suresh alias Raja, S/o.Murugesan, aged 35 years, detained at Central Prison, Coimbatore, has come forward with this petition challenging the detention order passed by the second respondent dated 07.02.2024, slapped on her son, branding him as "Immoral Traffic Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders,



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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 grounds are raised in this petition, the learned counsel for the petitioner focused mainly on the ground that the subjective satisfaction of the Detaining Authority that the family members of the detenu are taking steps to take out the detenu on bail, suffers from non-application of mind as the Special Report filed by the Investigating Officer is not dated. Hence, the learned counsel raised a *bona fide* doubt as to when the Special Report was sent by the Sponsoring Authority to the Detaining Authority. The learned counsel further pointed out that, unless the Special Report of the Sponsoring Authority is immediately before the Detention Order, it may not have relevance and hence, the subjective satisfaction of the Detaining Authority based on this undated document, would vitiate the Detention Order.



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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 out on bail and there was no reliable material to this effect. Hence, the



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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 07.02.2024 in C.NO.07/I.T.O./IS/Tiruppur City/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Suresh alias Raja, aged 35 years, detained at Central Prison, Coimbatore, 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]

21.06.2024

Index: Yes/No

Neutral Citation: Yes/No

Tsg

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

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To
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High Court, Madras.

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