



HCP.No.840 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

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

H.C.P.No.840 of 2024

Padmini

... Petitioner/mother of the detenu

Vs.

1.The Secretary to Government,
Home, Prohibition Excise Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai.

... Respondents

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



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the order of detention passed by the second passed by the second respondent dated 01.12.2023 in No.639/BCDFGISSSV/2023 against the petitioner's son, Jayakumar @ Madhan, aged about 27 years, son of Manimaran, who is confined at Central Prison Puzhal, Chennai and set aside the same and direct the respondents to produce the detenue before this Court and set him at liberty.

For Petitioner : No Appearance

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

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

The petitioner herein, who is the mother of the detenu viz., Jayakumar @ Madhan, aged about 27 years, son of Manimaran, confined at Central Prison Puzhal, Chennai, has come forward with this petition challenging the detention order passed by the second respondent dated 01.12.2023, 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



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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 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 relatives of the detenu are taking steps to take out the detenu on bail, suffers from non-application of mind, as the statement under 161 Cr.P.C., said to have been made by the petitioner's relative before the Sponsoring Authority, is dated 02.12.2023, and the order of detention is dated 01.12.2023. Therefore, the subjective satisfaction of the detaining authority suffers from non application of mind and would vitiate the Detention Order.

4. It is seen from the booklet that the sponsoring authority has recorded the statement of the relatives of the detenue on 02.12.2023, even



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though the detention order itself was passed on 01.12.2023. Therefore, the statement of the detaining authority that the relatives of the detainee are taking steps to file bail application is without any basis. Further, it is not known as to how the statement recorded under Section 161 Cr.P.C., by the sponsoring authority after the detention order was passed finds place in the booklet which ought to have been prepared before the order of detention. This reveals that the detention order has been passed mechanically and the booklet was not placed before the detaining authority.

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



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to be 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



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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. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 01.12.2023 in No.639/BCDFGISSSV/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Jayakumar @ Madhan, aged about 27 years, son of Manimaran, 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]

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Index: Yes/No

Neutral Citation: Yes/No

Anu



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2.The Commissioner of Police,
Greater Chennai.

3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai.

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

6.The Public Prosecutor,
High Court, Madras.



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

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