



H.C.P.No.744 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.744 of 2024

B.Dhanalakshmi

... Petitioner/mother of the detenue

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector &
District Magistrate,
Ariyalur District.

3.The Superintendent of Police,
Ariyalur,
Ariyalur District.

4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

5.The Inspector of Police,
Jayamkondam Police Station,
Jayankondam,
Ariyalur 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, calling for the records relating to the proceedings of the second respondent herein in No.Cr.M.P.No.21/2023 dated 29.10.2023 and quash the same and produce the detenue Muhammad Yashik, son of Bajirulla, aged about 19 years, TPDA No.8098 of 2023, now detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.P.Rajavel

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, who is the mother of the detenu viz., Muhammad Yashik, son of Bajirulla, aged about 19 years, detained at Central Prison, Tiruchirappalli, has come forward with this petition challenging the detention order passed by the second respondent dated 29.10.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,



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Forest Offenders, 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 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 arrived at a subjective satisfaction that the relatives of the detenu are taking steps to file a bail application before the appropriate Court. However, in the materials supplied along with the order of detention, there are no materials available as to how the Detaining Authority has arrived at the subjective satisfaction that the relatives of the detenu are taking steps to file bail application.

4. Heard the learned counsel on either side and perused the materials on record.



5. While arriving at a subjective satisfaction, the Detaining Authority, in the grounds of detention, particularly in Paragraph 5, has stated that the detenu's relatives are taking steps to file a bail application. However, in the booklet supplied, there are no materials whatsoever to arrive at a subjective satisfaction that the detenu's relatives are taking steps to file a bail application. The said statement of the Detaining Authority is a mere *ipse dixit*. Therefore, the order of detention is liable to be interfered with.

6. 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 paragraph Nos.10 and 11 of the said judgment of the Hon'ble Supreme Court:-



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“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 detention order in question cannot be sustained.”



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WEB COPY 7. 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.

8. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 29.10.2023 in Cr.M.P.No.21/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Muhammad Yashik, son of Bajirulla, aged about 19 years, detained at Central Prison, Tiruchirappalli, 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]
03.06.2024

Index: Yes/No
Speaking/Non-speaking order

Anu



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To
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1.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector &
District Magistrate,
Ariyalur District.

3.The Superintendent of Police,
Ariyalur,
Ariyalur District.

4.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

5.The Inspector of Police,
Jayamkondam Police Station,
Jayankondam,
Ariyalur District.

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

7.The Public Prosecutor,
High Court, Madras.



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and
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