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HCP.No.1445 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM :

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

H.C.P.No.1445 of 2024

R.Rajkumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai – 600 007.

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

4.The Inspector of Police,
T-4, Maduravoyal 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 No.240/BCDFGISSSV/2024 dated 22.03.2024 on the file of the second



HCP.No.1445 of 2024

respondent herein and set aside the same as illegal and produce the detenu namely Jayaseelan, aged about 30 years, S/o.Ramachandran, who is confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.Ilayaraja Kandasamy
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the friend of the detenu namely Jayaseelan, aged about 30 years, S/o.Ramachandran, has come forward with this petition challenging the detention order passed by the second respondent dated 22.03.2024 slapped on his friend, 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].



HCP.No.1445 of 2024

WEB COPY

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 though the Detaining Authority has stated in the grounds of detention that the relatives of the detenu are taking steps to take him out on bail in Crime Nos.199/2024 and 200/2024 by filing bail application, the statement of the relative made under Section 161 Cr.P.C. only refers to the steps taken for filing a bail application in one crime number viz., Crime No.200/2024.

4. On perusal of the grounds of detention, as well as the booklet, it is seen that though in the grounds of detention it is mentioned that the relatives of the detenu are taking steps to take him out on bail by filing bail application in two cases viz., Crime Nos.199/2024 and 200/2024, the statement of the relative made under Section 161 Cr.P.C. only refers to the steps taken for filing a bail application in one crime number viz., Crime No.200/2024. Hence, this Court is of the view that the subjective



HCP.No.1445 of 2024

satisfaction arrived at by the Detaining Authority that the detenu is likely to come out on bail in Crime Nos.199/2024 and 200/2024, suffers from non-application of mind.

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 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



WEB COPY



HCP.No.1445 of 2024

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.”

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.



HCP.No.1445 of 2024

WEB COPY

7. Accordingly, the detention order passed by the second respondent on 22.03.2024 in No.240/BCDFGISSSV/2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu namely Jayaseelan, aged about 30 years, S/o.Ramachandran, 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]

19.07.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

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HCP.No.1445 of 2024

WEB COPY

To

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Department of Prohibition and Excise (Home),
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
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3.The Superintendent of Prison,
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5.The Public Prosecutor,
High Court, Madras.



WEB COPY



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H.C.P.No.1445 of 2024

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