



HCP.No.1957 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

H.C.P.No.1957 of 2024

Manjula Rangan

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Petitioner

Vs

- 1 State of Tamil Nadu Rep by
The Secretary To Government,
Home, Prohibition and Excise Department,
Fort St.Gorge, Chennai -9.
- 2 The District Collector and
District Magistrate of Vellore District,
Vellore.
- 3 The Superintendent of Police
Vellore District, Vellore.
- 4 The Superintendent of Central Prison,
Central Prison, Vellore.
- 5 The Inspector of Police,
Pernampet Police Station, Vellore.

Respondents

PRAYER: Petition filed under Article 226 of Constitution of India to issue a Writ of Habeas Corpus, to call for the records to call for the records pertaining to the order of detention passed by the 2nd respondent in C3/D.O.No.45/2024 dated



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19.07.2024 against the detune Vishwa, male, aged 25 years, S/o. Rangan is now confined in Central Prison, Vellore and set aside the same and direct the respondent to produce the detune before this Court and set him at liberty.

For Petitioner : Mr. T.Muruganantham
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The order of detention passed by the second respondent, in C3/D.O.No.45/2024 dated 19.07.2024 is sought to be quashed in the present Habeas Corpus Petition.

2.The detaining authority relied on the similar case wherein the Principal Sessions Court, Vellore, granted bail in Cr.M.P.No.2098 of 2023, dated 07.06.2023. Since bail has been granted in a similar case, the detaining authority arrived a conclusion that there is likelihood of granting bail to the detenu in the present case. However, the learned counsel for the petitioner drew the attention of this Court that in the similar case, there was no previous case for the accused therein and in the present case, the detenu is facing two adverse cases. Therefore, the comparison made is improper and there is no application of mind.



3. Similar case need not be on similar facts. However, the analogy and the legal principles adopted must be similar, so as to form an opinion that the Detaining Authority has not applied his mind. Therefore, similarity does not mean or relatable to the facts of the case, but relatable to the legal principles and the grounds on which the bail was granted in the similar case.

4. The Hon'ble Supreme Court of India, in the case of ***Rekha vs. State of Tamil Nadu through Secretary to Government and Another¹***, 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. The relevant paragraphs 10 and 11 are extracted hereunder;

“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

¹ [2011 (5) SCC 244]



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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.”

5. Hence, mere subjective satisfaction would be insufficient to invoke preventive detention law. Such subjective satisfaction must have nexus, link and proximity relating to the adverse cases relied on. Perusal of the records in the present case would reveal that the similar case relied on is not actually similar,



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since in the said case the accused had no previous case, but in the present case, the detenu is having two adverse cases. Thus, there is no application of mind and the detention order in the present case, is liable to be quashed.

6. Accordingly, the impugned order of detention in C3/D.O.No.45/2024 dated 19.07.2024 is quashed and the Habeas Corpus Petition stands **allowed**. The detenu, namely, Vishwa, male, aged 25 years, S/o. Rangan, now confined at Central Prison, Vellore, is directed to be set at liberty forthwith unless he is otherwise required in connection with any other case.

[S.M.S., J.]

[V.S.G., J.]

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No



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AND
V.SIVAGNANAM, J.

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To

- 1 State Rep By
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