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H.C.P.No.1921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1921 of 2023

Gowri

...Petitioner/Wife of the Detenu

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort. St.George,
Chennai – 600 009.
- 2.The District Collector & District Magistrate,
Ranipet District, Ranipet,
- 3.The Superintendent of Police,
Ranipet, Ranipet District.
- 4.The Superintendent of Prison,
Central Prison – Vellore,
Vellore District.
5. State rep. by its
The Inspector of Police,

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Kaveripakkam Police Station,
Ranipet District.

...Respondents.

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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the entire records, relating to the petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 17.07.2023 on the file of the second respondent herein made in proceedings Memo B3/D.O.No.30/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Mahendiran S/o. Manikkam, aged 38 years before this Court and set the petitioner's husband at liberty from detention, now the petitioner's husband detained at Central Prison Vellore.

For Petitioner : Mr.R.Sasikumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by
Mr.C.Aravind

ORDER

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

The petitioner, wife of the detenu Mahendiran S/o. Manikkam, aged 38 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 17.07.2023 slapped on her



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husband, branding him as a "sexual offender" 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].

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The learned counsel for the petitioner though canvassed several points before this Court, this Court finds that the detention order is liable to be quashed on the ground of non application of mind. In the grounds of detention, the Detaining Authority has stated as follows:

“5.... I am aware that Thiru.Mahendiran has not filed a bail application in any court in ground case in Kaveripakkam Police Station Cr.No.151/2023, u/s.366 IPC., r/w Sec.4(2) of Protection of Children from Sexual Offences Act, 2012. However, information from reliable sources reveals that he is intending to file a bail petition through his relative....”

However, we find that though the Detaining Authority has stated that he



came to know through reliable sources that the detenu intended to file a bail application, there is no material for the same. The said statement of the Detaining Authority is without any basis and is his *ipse dixit*. Further, we find that the Detaining Authority has not referred to any order passed in a case of similar nature to arrive at such a satisfaction. Therefore, this Court finds that the subjective satisfaction of the Detaining Authority that the detenu is likely to be released on bail, is irrational and the detention order is liable to quashed on the ground of non-application of mind.

4. The issue is directly covered by the judgment of the Hon'ble Supreme Court in ***Rekha Vs. State of Tamil Nadu through Secretary to Government and Another*** reported in **2011 [5] SCC 244**. The relevant observations are as follows:-

"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."

5. 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.

6. Accordingly, the detention order passed by the 2nd respondent dated 17.07.2023 in B3/D.O.No.30/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty



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forthwith unless he is required in connection with any other case.

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[M.S.R., J] [S.M., J]
11.01.2024

ars

Index : Yes / No

Neutral Citation : Yes / No

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

ars

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
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6. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.

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