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H.C.P.No.1954 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1954 of 2023

Revathy

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police (Goondas Section),
Vepery, Chennai – 600 077.

3.The Superintendent of Prison,
Central Prison, Coimbatore, Coimbatore District.

4.The Inspector of Police,
J-3, Guindy Police Station,
Chennai.

... Respondents

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 Detention Order vide Memo



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BCDFGISSSV No.343/2023 dated 31.07.2023 passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's son namely Karthik @ Irula Karthik, S/o.Raghu, aged 27 years, (who is presently under going detention in the Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.S.N. Arun Kumar

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, who is the mother of the detenu Karthik @ Irula Karthik, S/o.Raghu, aged 27 years, has come forward with this petition challenging the detention order passed by the second respondent dated 31.07.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, 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 following grounds:

(i) The Detaining Authority has arrived at a subjective satisfaction that the relatives of the detenu Karthik are taking steps to file a bail application before the appropriate Court in the ground case in Crime No.464/2023. 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; and

(ii) The Detaining Authority has relied upon the order passed in CrI.M.P.No.18439/2018 and came to the conclusion that in a similar case bail has been granted and that there is a likelihood of the detenu to be released on bail. The learned counsel for the petitioner therefore submitted that the order relied upon by the Detaining Authority is not similar and there is non application of mind on the part of the Detaining Authority.



4. The learned Additional Public Prosecutor strongly opposed the

WEB CO HABEAS Corpus Petition by filing his counter.

5. While arriving at a subjective satisfaction, the Detaining Authority 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*. It is also seen that in the order that was relied upon by the Detaining Authority in CrI.M.P.No.18439 of 2018, the accused therein was enlarged on bail for the offences under Sections 147, 294(b), 324, 307 and 506(ii) IPC @ 302 IPC on the ground that the investigation was complete. However, in the present case, it is not so. Hence, the order that was relied upon by the Detaining Authority cannot be considered to be an order passed in a similar case. On these grounds, the order of detention is liable to be interfered with.

6. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of non application of mind on the part of the Detaining Authority.



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7. Accordingly, the detention order passed by the second respondent, in BCDFGISSSV No.343/2023, dated 31.07.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Karthik @ Irula Karthik, S/o.Raghu, aged 27 years, 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]
03.01.2024

Index: Yes/No
Speaking/Non-speaking order

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To

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

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

3.The Superintendent of Prison,
Central Prison, Coimbatore, Coimbatore District.

4.The Inspector of Police,
J-3, Guindy Police Station, Chennai.

5.The Public Prosecutor,
High Court, Madras.



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and
SUNDER MOHAN, J.

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