



H.C.P.No.2057 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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V.Divya
W/o.Ramkumar

... Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police,
Vepery, Chennai.

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

4.The Inspector of Police,
P-4 Basin Bridge Police Station,
Chennai.

... 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, call for the records pertaining to the order of detention passed by the second respondent in his proceedings in No.422/BCDFGISSSV/2023, dated 25.09.2023 and quash the same as illegal and produce the detenu, namely RAMKI @ RAMKUMAR, S/o.Edward, aged 30 years, as GOONDA, now he is confined in Central Prison Puzhal II, Chennai before this Court and set him at liberty.

For Petitioner	:	Mr.C.Raja
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 Ramki @ Ramkumar, aged about 30 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 25.09.2023 slapped on her husband, 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



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Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982

WEB COURT [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 detention order is liable to be quashed on the sole ground that the subjective satisfaction arrived at by the Detaining Authority regarding the imminent possibility of the detenu coming on bail, suffers from non-application of mind.

4. The Detaining Authority had relied upon an order passed in CrI.M.P.No.19198 of 2021 by the learned Principal Sessions Judge, Chennai, to infer that bail is likely to be granted to the detenu. However, on perusal of the order passed in CrI.M.P.No.19198 of 2021, this Court finds that there is only one previous case against the accused therein and the bail was granted to him, whereas, in the instant case, the detenu has two adverse cases. Therefore, the said order relied upon by the Detaining Authority to infer that in similar cases bail has been granted, suffers from non application of mind, since the accused therein was not on a similar footing as that of the



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detenu. This issue is also covered by 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



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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 25.09.2023 in No.422/BCDFGISSV/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu 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]
30.01.2024

pvs
Internet : Yes
Index : Yes / No
Neutral Citation : Yes / No

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