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H.C.P.No.2223 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2223 of 2023

Anne Bellah

... Petitioner/wife of the detenue

Vs.

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

2.The District Collector and District Magistrate,
Villupuram District,
Villupuram District.

3.The Superintendent of Police,
Villupuram,
Villupuram District.

4.The Superintendent of Prison,
Central Prison - Cuddalore,
Cuddalore District.

5.State rep. by its



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The Inspector of Police,
Villupuram PEW Police Station,
Villupuram District.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for the issuance of 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 27.10.2023 on the file of the second respondent herein made in proceedings Memo Rc.No.C2/66404/2023, quash the same as illegal and consequently, direct the respondents herein to produce the petitioner's husband namely Manoharan @ Mano, S/o.Samidurai, aged 41 years before this Court and set him at liberty from detention, now the petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner : Mr.R.Sasikumar

For Respondents : Mr.E. Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

ORDER

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

The petitioner herein, who is the wife of the detenu viz., Manoharan @ Mano, S/o.Samidurai, aged 41 years, detained at Central Prison, Cuddalore, has come forward with this petition challenging the detention order passed by the second respondent dated 27.10.2023



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slapped on her husband, branding him as "Bootlegger" 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, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. The detaining authority has relied upon an order passed in CrI.M.P.No.7689 of 2018 dated 01.11.2018 by the learned District Sessions Court, Villupuram, to arrive at a subjective satisfaction that the detainee was likely to be released on bail. However, we find from the said bail order that there is no reference to any previous cases against the accused therein. However, in the present case, though only two adverse cases are noted by the detaining authority, in the remand application, the investigating officer has stated that the petitioner was involved in 17 cases. Therefore, the order relied upon by the detaining authority cannot be said to be similar. Hence, the subjective satisfaction of the detaining authority suffers from non-application of mind and the same vitiates the



detention order.

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4. 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 paragraphs 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 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



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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 second respondent in Memo Rc.No.C2/66404/2023, dated 27.10.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Manoharan @ Mano, S/o.Samidurai, aged 41 years, detained at Central Prison, Cuddalore, is directed to be set at liberty forthwith unless he is



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required in connection with any other case.

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

27.03.2024

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Anu



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- To
- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
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Chennai-600 009.
 - 2.The District Collector and District Magistrate,
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Villupuram District.
 - 3.The Superintendent of Police,
Villupuram,
Villupuram District.
 - 4.The Superintendent of Prison,
Central Prison - Cuddalore,
Cuddalore District.
 - 5.The Inspector of Police,
Villupuram PEW Police Station,
Villupuram District.
 - 6.The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.
 - 7.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
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