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H.C.P.No.2281 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 21.03.2024**

CORAM :

**THE HONOURABLE MR. JUSTICE M.S.RAMESH**

**AND**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**H.C.P.No.2281 of 2023**

Bharathi

...Petitioner

Vs.

1. The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai – 600 009.
2. The District Collector and District Magistrate of  
Ranipet District, Ranipet-1.
3. The Superintendent of Police,  
Ranipet District, Ranipet.
4. The Superintendent of Prison,  
Central Prison, Vellore.
5. The Inspector of Police,  
Kaveripakkam Police station,  
Ranipet District.

...Respondents.

**Prayer** : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, calling for the



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records in connection with the order of detention passed by the second respondent dated 15.11.2023 in B3/D.O. No.53/2023 against the petitioner husband Sankaran, Male, aged 49 years, S/o. Nadanasigamani, who is confined at Central Prison, Vellore, and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D. Balaji  
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, wife of the detenu Sankaran, aged about 49 years, S/o.Nadanasigamani, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 15.11.2023 slapped on her husband, branding him as "Drug Offender" as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982.

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



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3. Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority regarding the possibility of the detenu coming out on bail by relying upon the bail order granted to the accused in a similar case, suffers from non-application of mind.

4. The Detaining Authority had relied upon an order passed in CrI.O.P. No.19169 of 2023 by this Court to infer that bail is likely to be granted to the detenu. However, on perusal of the order passed in CrI.O.P.No.19169 of 2023 dated 22.08.2023, this Court finds that there are only one previous case against the accused therein and hence, the bail was granted to him, whereas, in the instant case, the detenu has five previous 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 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:-

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*"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*



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*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. In view of the aforesaid reason, the detention order passed by the 2<sup>nd</sup> respondent dated 15.11.2023 in B3/D.O.No.53/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Sankaran, aged 49 years, S/o. Nadanasigamani, 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]  
21.03.2024**

bga

Index : Yes / No

Neutral Citation : Yes / No



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5. The Inspector of Police,  
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Ranipet District.
6. The Public Prosecutor,  
High Court, Madras.
7. The Joint Secretary,  
Law and Order Department,  
Secretariat, Chennai.



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