



HCP.No.2423 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2423 of 2023

Selvi

... Petitioner

Vs.

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

2.District Magistrate and District Collector,
Tiruppur District,
Tiruppur.

3.The Superintendent of Police,
Tiruppur District.

4.The Superintendent,
Central Prison,
Coimbatore.

5.The Inspector of Police,
Palladam Police Station,
Tiruppur District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the second respondent pertaining to the order made in Cr.M.P.No.35/GOONDA/2023, dated 21.09.2023 in detain the detenu under 2(f) of Tamil Nadu Act 14 of 1982, as a GOONDA and quash the same and direct the respondent to produce the detenu Kutti @ Vengatesh @ Rajkumar, S/o.Ayyappan, male, aged about 27 years, who is detained at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.G. Nirmal Krishnan
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 mother of the detenu Kutti @ Vengatesh @ Rajkumar, aged 27 years, S/o.Ayyappan, has come forward with this petition challenging the detention order passed by the second



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respondent dated 21.09.2023 slapped on her son, 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 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 learned counsel for the petitioner though canvassed several points before this Court, this Court is able to find some force in his submission that there is no application of mind on the part of the Detaining Authority in arriving at the subjective satisfaction. Learned counsel pointed out that the Detaining Authority has not specifically mentioned about the imminent possibility of the detenu coming out on bail in the ground case and he has not relied upon any similar case to arrive at the subjective satisfaction. He has merely stated that *"On the materials placed before me, I am satisfied that the said **Kutti** alias **Vengatesh** alias **Rajkumar** is a*



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Goonda and there is a compelling necessity to detain him in custody under the Tamil Nadu Act 14 of 1982 in order to prevent him from indulging in such further activities in future which are prejudicial to the maintenance of public order and peace under Section 3[1] of the Tamil Nadu Act 14 of 1982.....". This statement of the Detaining Authority without any material, is mere *ipse dixit* and suffers from non-application of mind. Hence, on the above ground, the Detention Order is liable to be quashed.

4. On a perusal of the Grounds of Detention, in particular, paragraph No.5, it is seen that the subjective satisfaction arrived by the Detaining Authority, is not based on any materials and there is no reference to any similar cases to arrive at such subjective satisfaction. Further, the imminent possibility of the detenu coming out on bail in the ground case has not been specifically stated by the Detaining Authority. This subjective satisfaction of the Detaining Authority is mere *ipse dixit* and suffers from non-application of mind.



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5. 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 is on the same footing



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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.”

6. 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.

7. Hence, for the aforesaid reasons, the detention order passed by the second respondent on 21.09.2023 in Cr.M.P.No.35/GOONDA/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu



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viz., Kutti @ Vengatesh @ Rajkumar, aged 27 years, S/o.Ayyappan, 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]
01.02.2024

Index: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.District Magistrate and District Collector,
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- 3.The Superintendent of Police,
Tiruppur District.
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Central Prison, Coimbatore.
- 5.The Inspector of Police,
Palladam Police Station,
Tiruppur District.
- 6.The Public Prosecutor,
High Court, Madras.



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