



H.C.P.No.2424 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2424 of 2023

Selvi

...Petitioner/Wife of the Detenu

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Dpartment,
Fort St. George,
Chennai 600 009

2. The 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 : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus, to call for the records relating to the detention order passed by the second respondent pertaining to the order made in Cr.M.P. No.36/Goonda/2023 dated 21.09.2023 in detaining 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 Ayyappan, Son of Palanivel, aged about 53 years, who is detained at Central Prison, Coimbatore before this Hon'ble 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

(Order of the Court was made by **SUNDER MOHAN, J.**)

The petitioner, wife of the detenu Ayyappan, Son of Palanivel aged about 53 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 21.09.2023 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 Offenders,



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Sexual 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. 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. In paragraph-5 of the Grounds of Detention, the detaining authority has stated that he was aware of the fact that the detenu has not filed any bail application. He has expressed his satisfaction that there was a real possibility of the detenu coming out on bail by filing a bail application. However, we find that there are no materials before the detaining authority as to the attempt made by the detenu to come out on bail by filing a bail application. The above observation, in the grounds of detention, is mere



ipse dixit and suffers from non application of mind. 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.



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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 2nd respondent dated 21.09.2023 in Cr.M.P. No.36/Goonda/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ayyappan, aged about 53 years, Son of Palanivel, 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]
29.01.2024

bga



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Index : Yes / No

Neutral Citation : Yes / No

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To

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



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and
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