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H.C.P.No.2485 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.2485 of 2023

S. Divya

...Petitioner/wife of the Detenu

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Prohibition and Excise Department
Fort. St. George, Chennai -9
2. The District Collector and District Magistrate
Office of the District Collector
Cuddalore, Cuddalore District.
3. The Superintendent of Police
Cuddalore, Cuddalore District.
4. The Superintendent of Police,
Central Prison Cuddalore
Cuddalore District.
5. The Inspector of Police,
Prohibition Enforcement Wing,
Cuddalore 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 in Detention order passed in C3/D.O./53/2023 dated 23.09.2023 passed by the 2nd respondent herein and quash the same and direct the respondents herein to produce the body of the detenu namely Sharvanth @ Saravanan age-44, S/o. Selvasegaran, No.8, Doctors Avenue, North Koadur, Chennai, who is now confined in Central Prison, Cuddalore, Cuddalore District before this Hon'ble Court and set him at liberty.

For Petitioner : Mr. R. Dinesh Kumar

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 Shrvanth @ Saravanan, S/o.Selvasegaran, aged about 44 years, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 23.09.2023 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 and the learned



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Additional Public Prosecutor appearing for the respondents.

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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.688/2020 dated 31.01.2020 by the learned District Sessions Judge, Cuddalore, to infer that bail is likely to be granted to the detenu. However, on a perusal of the order passed in CrI.M.P.No.688 of 2020, this Court finds that the said bail application was filed by the accused therein on the ground that the detention order passed against him was quashed by this Court. Taking note of the same and also since there was no serious objection by the Public Prosecutor in granting bail to the accused, bail was granted to the accused in that case. 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. 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 only contains ipse dixit regarding the alleged imminent possibility of the accused coming out on bail and there



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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 23.09.2023 in C3/D.O./53/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Shravanth @ Saravanan, aged 44 years S/o.Selvasegaran, 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]
31.01.2024

bga

Index : Yes / No

Neutral Citation : Yes / No



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6. The Public Prosecutor,
High Court, Madras.
7. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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

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