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H.C.P.No.10 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.10 of 2024

P.Rani

... Petitioner/mother of the detenue

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

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

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

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

5.The Inspector of Police,
Kullanchavadi Police Station,
Chennai-600 117.

... Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the



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Constitution of India, praying for the issuance of Writ of Habeas Corpus, calling for the records in C3/D.O./67/2023 dated 19.10.2023 on the file of the second respondent and quash the same as illegal and consequently, direct the respondents to produce the petitioner's son Thiru. Ragul, aged 23 years, S/o.Palanisami, who is now confined at Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.K.Vijayakumar

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, who is the mother of the detenu viz., Ragul, aged 23 years, S/o.Palanisami, has come forward with this petition challenging the detention order passed by the second respondent dated 19.10.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand 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.



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3. Though several grounds are raised in the petition, the learned counsel for the petitioner pointed out that the Detaining Authority has not applied its mind while expressing its subjective satisfaction that the detenu is also likely to be released on bail. It is his submission that the case relied upon by the Detaining Authority is not similar to the present case, as the bail was granted in favour of the accused therein by recording the fact that the investigation was almost over.

4. On a perusal of the Booklet, this Court finds that in the grounds of detention, the detaining authority, by placing reliance on a case in Cr.No.273 of 2018 made in CrI.M.P.No.4791 of 2018 and by comparing the same with the detenue's case, has come to a conclusion that there is a similar case in which bail was granted. The bail was granted to the accused therein on the ground that the investigation was almost over which was not the stage of the investigation in the ground case in which the detenue was detained. Apparently, the detaining authority has not applied his mind while making such a comparison and coming to a conclusion on it to be a similar case, and hence, the order of detention 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 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. Accordingly, the detention order passed by the second respondent in C3/D.O./67/2023, dated 19.10.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Ragul, aged 23 years, S/o.Palanisami, 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]

29.02.2024

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,
Fort St. George, Chennai – 600 009.
 - 2.The District Collector and District Magistrate,
Ranipet District, Ranipet.
 - 3.The Superintendent of Police,
Ranipet District.
 - 4.The Superintendent,
Central Prison, Vellore.
 - 5.The Inspector of Police,
Arcot Taluk Police.
 - 6.The Public Prosecutor,
High Court, Madras.



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