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H.C.P.No.2553 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.2553 of 2023

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...Petitioner/Wife of the Detenu

Vs.

1. State of Tamil Nadu

Represented by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2. The Commissioner of Police,
Greater Chennai.

3. The Inspector of Police,
R-9, Valarasavakkam Police Station, Chennai.

4. The Superintendent,
Central Prison, Puzhal, Chennai.

...Respondents

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 entire records relating to petitioner's husband detention under Tamil Nadu



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Act 14 of 1982 vide detention order, dated 24.11.2023 on the file of the second respondent herein made in proceedings No.627/BCDFGISSSV/2023 and quash the same as illegal and consequently direct the respondents herein to produce the petitioner's husband namely Manikandan, aged 26 years, son of Ramesh, before this Hon'ble High Court and set him at liberty, now petitioner's husband detained at Central Prison, Puzhal, Chennai – 600 066.

For Petitioner : M/s.C.C.Chellappan
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 viz.,Manikandan, aged about 26 years, S/o.Ramesh, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 24.11.2023 slapped on her husband, branding him as "Goonda" as contemplated under Section 2(f) 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 grounds are raised in the petition, the learned counsel for the petitioner submitted that the bail order in the similar case relied on by the Detaining Authority to arrive at the subjective satisfaction that the detenu is likely to be released on bail was not furnished to the detenu herein by the Detaining Authority, which is a total non-application of mind.

4. The Detaining Authority in the impugned order has placed reliance on a bail order passed in CrI.M.P.No.2054 of 2023 and claiming that to be a similar case, as that of the ground case in which the detenu has been detained, has inferred that he is likely to come out on bail. However, the copy of the bail order in CrI.M.P.No.2054 of 2023, has not been furnished to the detenu. Thereby, it would deprive the detenu of making effective representation to the authorities against the order of detention.

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'***, had 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 paragraph Nos.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.



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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.”

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 dated 24.11.2023 in proceedings No.627/BCDFGISSSV/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Manikandan, aged 26 years, S/o.Ramesh,, 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]
26.03.2024

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Index : Yes / No

Neutral Citation : Yes / No

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To

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1. State of Tamil Nadu
Represented by the Additional Chief Secretary,
Home, Prohibition and Excise Department,
Fort St. George, Chennai 600 009.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
3. The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai.
4. The Superintendent of Police,
Central Prison-II, Puzhal, Chennai 600 066
5. The Public Prosecutor,
High Court, Madras.
6. The Joint Secretary,
Law and Order Department,
Secretariat, Chennai.



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SUNDER MOHAN, J.

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