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H.C.P.No.3124 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
and
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

H.C.P.No.3124 of 2024

Manjula

... Petitioner

Vs.

1. The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St.George, Chennai - 600 009.
2. The Commissioner of Police,
Chennai District, Chennai.
3. The Deputy Commissioner of Police,
Chennai District.
4. The Superintendent of Prison,
Central Prison, Puzhal,
Chennai District.
5. The Inspector of Police,
Arumbakkam Police Station,
Chennai District.

... Respondents



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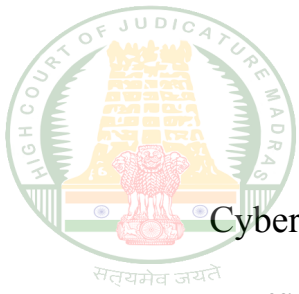
PRAYER: This Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to call for the records pertaining to the order of detention passed by the second respondent in 1129/BCDFGISSSV/2024 dated 14.11.2024 against the petitioners son Manikandan S/o. Muralidharan male aged 29 yrs now confined in Central Prison, Puzhal and set aside the same and direct the respondents to produce the detenu before this Hon'ble court and set him at Liberty.

For Petitioner : Mr. Ilayaraja Kandasamy
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by Mr.M.Sylvester John

ORDER

M.S.RAMESH, J.
and
N.SENTHILKUMAR, J.

The petitioner herein is the mother of the detenu viz., Manikandan, male, aged 29 years, S/o.Muralidharan, has come forward with this petition challenging the detention order passed by the second respondent dated 14.11.2024 slapped on his son, branding him as "Goonda" contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,



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Cyber law offenders, 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.

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 offences charged as against the accused in the similar case relied upon by the Detaining Authority are different compared to the case on hand.

4. On a perusal of the Booklet, this Court finds that the offences charged against the accused in CrI.M.P.No.20525 of 2024 are not similar to the case on hand. Considering the nature of the bail order in the similar case relied upon by the Detaining Authority and the case on hand, this Court finds that the subjective satisfaction of the Detaining Authority that the



detenu is also likely to be released on bail, 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



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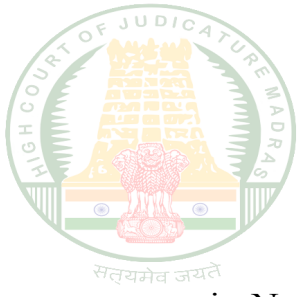


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course, it could be argued that there is likelihood of the accused being released on bail, because it is the normal practice of most courts that if a co-accused has been granted bail and his case is on the same footing as that of the petitioner, then 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.

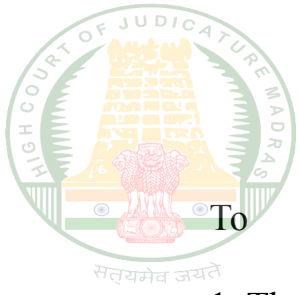


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7. Accordingly, the detention order passed by the second respondent in No.1129/BCDFGISSSV/2024, dated 14.11.2024, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Manikandan, male, aged 29 years, S/o.Muralidharan, now confined at Central Prison, Puzhal, Chennai, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

[M.S.R, J.] [N.S, J.]
22.04.2025

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6. The Public Prosecutor,
High Court of Madras, Chennai - 600 104.



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