



WEB COPY



H.C.P.No.59 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.59 of 2023

K.Bakiyavathi

.. Petitioner

Vs

1. The State of Tamil Nadu
Rep. By its Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai – 600 009.
2. The District Magistrate and District Collector
Erode District
Erode
3. The Superintendent of Police
Erode District
Erode
4. The Inspector of Police
Puliyampatti Police Station
Puliyampatti

Page Nos.1/10



H.C.P.No.59 of 2023

Erode District

5. The Superintendent
Central Prison, Coimbatore
Coimbatore District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records relating to the detention order dated 16.12.2022 made in detention order in Cr.M.P.No.41/Goonda/2022-C1 passed by the 2nd respondent herein quash the same and direct the respondents to produce the body of the detenu Thiru.Saravanan @ Military Saravanan, male aged 45 years, son of Late Krishnasamy, who has been detained in Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner	:	Mr.R.Murugabharathi for Mr.SP.Yuvaraj
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by mother of detenu assailing a 'preventive detention order dated 16.12.2022 bearing reference Cr.M.P.No.41/Goonda/2022-C1 [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be

Page Nos.2/10



H.C.P.No.59 of 2023

noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

2. Impugned detention order has been made 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 No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There is one adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.370 of 2022 on the file of Puliampatti Police Station for alleged offences under Sections 362, 342 and 394 of 'The Indian Penal Code (45 of 1860)' altered to Sections 364, 364(A), 395 read with 397 and 368 of IPC and again altered to Sections 364, 364(A), 395 read with 397 and 368 of IPC and Section 3(1)(r)(s) and 3(2)(va) of Scheduled caste /



H.C.P.No.59 of 2023

Scheduled Tribe (Prevention of Atrocity) Act, 2015. Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.R.Murugabharathi, learned counsel representing the counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. In the final hearing Board, Mr.R.Murugabharathi, learned counsel representing the counsel on record for the petitioner projected his argument qua his campaign against the impugned preventive detention order on one point though several grounds have been raised /urged in the support affidavit. One point that was canvassed in the final hearing board turns on drastic difference in dates and crime number in the English and Tamil versions of remand extension orders at pages 218 and 219 of the grounds booklet served on the detenu. A scanned reproduction of these two pages is as follows:



WEB COPY

02.11.2022

ஆஜர்படுத்தப்பட்ட குற்றம்சாட்டப்பட்டவரை
குற்றவியல் பல்வகை மனு எண்.
333/2022ன்படி போலீஸ் காவலுக்கு
ஒப்படைக்க உத்தரவிடப்படுகிறது. எனவே,
இன்று 23.11.2022ஆம் தேதி மாலை 5.00
மணிக்கு போலீஸ் காவலுக்கு
ஒப்படைக்கவும்.

ஒப்பம்.

23.11.2022

முதன்மை அமர்வு நீதிபதி,
ஈரோடு.

அப்பா,

கைதியையும், நீதிமன்ற உத்தரவையும்
பெற்றுக் கொண்டேன்.

ஒப்பம்.

23.11.2022

ஐயா,

உத்தரவு நகலை நான் பெற்றுக்
கொண்டேன்.

ஒப்பம். சரவணன்,
23.11.2022

24.12.2022

குற்றம்சாட்டப்பட்டவர் போலீஸ் காவல்
முடித்து ஆஜர்படுத்தப்பட்டார். எனவே,
அவரது நீதிமன்ற காவல் 08.12.2022 வரை
நீட்டிக்கப்படுகிறது.

ஒப்பம்.

24.11.2022

முதன்மை அமர்வு நீதிபதி,
ஈரோடு.

/ உன்மை நகல் /

நன்கு படித்து தெரிந்து கொள்ளும் வகையிலுள்ள
இதன் நகலை பெற்றுக் கொண்டு
விளக்கி கூற கேட்டு பதிர்த்து கொண்டேன்

செய்யுமுன் 2
தேதி 19/12/22 தேதி 13.30 மணி

காவல் துணைக் கண்காணிப்பாளர்,
சமூக நீதி மற்றும் மனித உரிமைகள் அலகு,
பொறுப்பு : சத்தியமங்கலம் உட்கோட்டம்,
ஈரோடு மாவட்டம்.

சிறைவாசிக்கு படித்து காண்பிக்கப்பட்டு
விளக்கி கூறப்பட்டது
என்னை என்பது செய்யப்பட்டது

சிறை அலுவலர்/கருவல் கண்காணிப்பாளர்
மத்திய சிறை, கோவை-18



H.C.P.No.59 of 2023

6. Learned counsel points out that 23.11.2022 date in the English version is shown as 22.11.2022 in the Tamil version, Crime No.370 of 2022 in the English version has been shown as Crime No.370 of 2018 in the Tamil version and further extension order date 24.11.2022 has been wrongly shown as 24.12.2022 in the Tamil version.

7. Learned counsel submitted that the aforementioned confusion is drastic and that it can baffle anybody. This puts the petitioner at a disadvantage qua making an effective representation against impugned preventive detention order. As the aforesaid point turns heavily on records, learned Prosecutor really has little say i.e., no say.

8. In the light of the narrative thus far, this Bench has no difficulty in accepting the argument that the detenu's sacrosanct right to make an effective representation against the impugned preventive detention order has been impaired. To be noted, this sacrosanct / sanctus right is a constitutional safeguard ingrained in Article 22(5) of Constitution of India. The sequitur is, impugned preventive detention order deserves to be dislodged.



H.C.P.No.59 of 2023

9. Ergo, captioned HCP is allowed. Impugned detention order dated

16.12.2022 bearing reference Cr.M.P.No.41/Goonda/2022-C1 made by the second respondent is set aside and the detenu Thiru.Saravanan alias Military Saravanan, aged 45 years, son of Thiru.Krishnasamy (late) is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no order as to costs.

(M.S.,J.)

(R.S.V.,J.)

17.07.2023

Index : Yes

Neutral Citation : Yes

gpa

P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Coimbatore.



H.C.P.No.59 of 2023

To
WEB COPY

1. The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai – 600 009.
2. The District Magistrate and District Collector
Erode District
Erode
3. The Superintendent of Police
Erode District
Erode
4. The Inspector of Police
Puliyampatti Police Station
Puliyampatti
Erode District
5. The Superintendent
Central Prison, Coimbatore
Coimbatore District
6. The Public Prosecutor
Madras High Court
Chennai



WEB COPY



H.C.P.No.59 of 2023

M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,

gpa

H.C.P.No.59 of 2023

17.07.2023

Page Nos.10/10