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H.C.P.No.98 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE DR.JUSTICE D.NAGARJUN

H.C.P.No.98 of 2023

Rani

W/o.Subramani

.. Petitioner/Mother of Detenu

Vs.

1.State of Tamil Nadu,
Rep. by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate
of Tiruvannamalai District,
Office of the District Collector and District Magistrate,
Tiruvannamalai District, Tiruvannamalai.

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

4.The Superintendent of Prison,
Central Prison,
Vellore, Vellore District.

5.The Inspector of Police,
Santhavasal Police Station,
Tiruvannamalai District.

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records relating to the detention order in D.O.No.88/2022-C2, dated 28.09.2022 passed by the 2nd respondent under the Tamilnadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's son CHINNARAJA @ CHINNARASU S/o.SUBRAMANI aged about 33 years, the detenu now confined in Central Prison, Vellore before this Court and set the petitioner's son CHINNARAJA @ CHINNARASU S/o.SUBRAMANI aged about 33 years the detenu herein at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.L.Charles Premkumar

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John, Advocate

ORDER

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

When the matter came up for admission on 24.01.2023, this Bench made an order and a scanned reproduction of the same is as follows:



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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 11.01.2023 *inter alia* assailing a detention order dated 28.09.2022 bearing reference D.No.88/2022 (12) made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. Mother of the detenu is the petitioner.

3. Mr.W.Camyles Gandhi, learned counsel representing the counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 294(b), 341, 323, 324 and 506(ii) of IPC altered into Sections 294(b), 341, 323 and 307 of IPC in Crime No.370 of 2022 on the file of Santhavasal Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Gooda' under Section 2(f) of 'The Tamil

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Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Shm-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].

5. The detention order has been assailed *inter alia* on the ground that the alleged cases said to have been registered against the detenu do not constitute acts relating to public order.

6. *Prima facie* case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

7. Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.

[M.S.J.,]

[M.N.K.J.,]

mk

24.01.2023



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2. Mr.S.Senthilvel, learned counsel representing the counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.M.Sylvester John, learned counsel for all respondents are before us.

3. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument qua challenge to the impugned detention order on one point and that point is not providing correct translated copy of document (relied on by the detaining authority) in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to page No.85 of the booklet which is the Arrest Intimation Form. No Tamil translation of this document has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that Arrest Intimation Form forms part of the ground on which the impugned detention order has been made. As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

4. Be that as it may, we are informed that the literacy level of the detenu is 12th standard in school and he is a school drop out. We are also



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informed that the detenu is conversant only with Tamil. We remind ourselves of Powanammal case i.e., ***Powanammal Vs. State of Tamil Nadu***, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, Powanammal case is reported in ***(1999) 2 SCC 413*** and paragraphs 6 and 16 {as in SCC journal} read as follows:

'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

5. We find that the aforementioned ***Powanammal*** case applies in all fours to the case on hand as we find that Arrest Intimation Form which has been relied on as part of the grounds of detention qua impugned



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detention order is a crucial document and not furnishing the same in Tamil the lone language known to the detenu has impaired his constitutional right to make an effective representation of the impugned detention order. We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

6. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 28.09.2022 bearing reference D.O.No.88/2022-C2 made by the second respondent is set aside and the detenu Thiru.Chinnaraja @ Chinnarasu, male, aged 33 years, Son of Thiru.Subramani 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.) (D.N.R.,J.)
06.04.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
rsi

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



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M.SUNDAR, J.
and
DR.D.NAGARJUN, J.

rsi

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate
of Tiruvannamalai District,
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Santhavasal Police Station,
Tiruvannamalai District.
- 6.The Public Prosecutor,
High Court, Madras.

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