



H.C.P.No.129 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P.No.129 of 2023

M.Arokiyasamy

.. Petitioner

Vs

1. The State of Tamil Nadu rep. By its
Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
2. The Commissioner of Police,
O/o.Police Commissioner,
Tambaram City, Sholinganallur,
Chennai – 119.
- 3.The Superintendent of Central Prison,
Puzhal Prison, Puzhal, Chennai – 66.
- 4.The Sub Inspector of Police,
T-14 Pallikaranai Police Station,
Pallikaranai, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records relating to the impugned detention order against the detenu Arputharaj, S/o.Arokkiyasamy, aged about 29 years, residing at Rathinasabapathi Street, Purasaivakkam, Chennai – 7 detained at

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Central Prison, Puzhal as 'Sexual Offender' BCDFGISSSV No.183/2022 dated 31.10.2022 passed by the second respondent u/s 3(1) read with Section 3(2) of 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 (Tamil Nadu Act 14 of 1982) and set aside the same and direct the respondents to produce the body of the detenu before this Court now confined in Central Prison, Puzhal, Chennai.

For Petitioner : Mr.P.Sridhar
for Mr.S.Xavier Felix

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 father of detenu assailing a 'preventive detention order dated 31.10.2022 bearing reference BCDFGISSSV No.183/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.



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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 'Sexual Offender' within the meaning of Section 2(ggg) of Act 14 of 1982.

3. There is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.993 of 2022 on the file of T-14 Pallikaranai Police Station for alleged offences under Sections 451, 294(b), 323, 342, 376, 392 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. 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.



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

5. In the support affidavit qua captioned HCP, several points/grounds have been raised/urged but in the final hearing today, learned counsel for petitioner projected his argument in his challenge against the impugned preventive detention order on the point that translated copy of the document relied on by the detaining authority in a language which the detenu is conversant with, has not been furnished to the detenu. Elaborating on the submission, learned counsel drew our attention to page Nos.77 and 79 of the booklet which is the Accident Register dated 24.09.2022 of Government Hospital, Tambaram. No Tamil translation of this document has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that the above document forms part of the ground on which the impugned preventive detention order has been made.

6. As this turns on obtaining facts which are before us learned State Additional Public Prosecutor does not have much of a say.

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7. Be that as it may we are informed that the literacy level of the detenu is 9th standard and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**. The question which the Honourable Bench of the Supreme Court addressed to itself in a similar fact situation is captured in paragraph 6 and the manner in which a Honourable 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. '



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8. In the case on hand, we find that Accident Register which has been relied on as part of the grounds of detention qua impugned preventive 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 qua the impugned preventive detention order. We therefore have no hesitation in saying that the impugned preventive detention order deserves to be dislodged.

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 31.10.2022 bearing reference BCDFGISSSV No.183/2022 made by the second respondent is set aside and the detenu Thiru.Arputharaj, aged 29 years, S/o. Thiru.Arokkiyasamy, 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.)
04.07.2023

Index : Yes / No
Neutral Citation : Yes / No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai.

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To

1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
2. The Commissioner of Police,
O/o.Police Commissioner,
Tambaram City, Sholinganallur,
Chennai – 119.
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T-14 Pallikaranai Police Station,
Pallikaranai, Chennai.
- 5.The Public Prosecutor
High Court, Madras.



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R.SAKTHIVEL, J.,**

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