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HCP No.200 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.200 of 2023

Kaviya

.. Petitioner

Vs.

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Greater Chennai,
Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.

4.The Inspector of Police,
P-1 Pulianthope Police Station,
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 records in connection with the order of detention passed by the second respondent dated



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27.07.2022 in Memo No.216/BCDFGISSSV/2022 against the petitioner's brother Dinesh, Male, aged about 22 years S/o.Krishnan, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

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

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by the detenu assailing 'detention order dated 27.07.2022 bearing reference Memo No.216/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience]. To be noted, the fourth respondent is the sponsoring authority and the second respondent is the detaining authority as impugned detention order has been made by the 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,



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Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 2002 (Tamil Nadu Act No.14 of 2002)' [hereinafter 'Act 14 of 2002' 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 2002.

3. There is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.431 of 2022 on the file of P-1 Pulianthope Police Station for alleged offences under Sections 341, 302 and 506(ii) '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.

4. Mr.N.Vijayaraj, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John learned counsel for respondents are before us.

5. Learned counsel for petitioner predicated his campaign against the impugned detention order on one short point and that is, in English version



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of the Remand Order at Page No.70 of the grounds of detention which was served to the detenu in the form of a booklet [hereinafter 'said booklet' for the sake of convenience] it is mentioned as '**Remand Advocate informed he has not turned up at the time of remand**'. But in the Tamil translation at Page No.79 of the said booklet, the above said line was missing and hence, it is not a proper translation which affects the petitioner's right of making an effective representation.

6.We had the benefit of perusing the said booklet and we find that the petitioner's submission is correct. Further, a careful perusal of the confession statement makes it clear that the literacy level of the detenu is only XII Standard in School. There is no disputation that the detenu is conversant with Tamil only. Therefore, not furnishing the detenu with proper Tamil translation of the remand order vitiates the impugned detention order.

7.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 27.07.2022 bearing reference Memo No.216/BCDFGISSSV/2022 made by the second respondent is set aside



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and the detenu Thiru.Dinesh, aged 22 years, son of Thiru.Krishnan is directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
08.03.2023

Index: Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal,
Chennai.
- 4.The Inspector of Police,
P-1 Pulianthope Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court of Madras, Chennai - 104.



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

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