



H.C.P.No.381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.381 of 2023

Mrs.Kavitha Tulshyan
W/o.Govind Tulshyan

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. By its Secretary
Home, Prohibition and Excise Department
Fort St.George Chennai – 600 009
2. The Commissioner of Police (Avadi)
Avadi Police Commissionerate
Type V, Qtr. No.5/1, HVF Estate
Bhaktavatsala Puram, Avadi
Chennai – 600 054
3. The Superintendent of Police
Puzhal Central Jail
Chennai – 600 066
4. The Inspector of Police
EDF – II Team
Central Crime Branch
Avadi

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Chennai – 600 054

..Respondents

WEB COPY Petition filed under Article 226 of the Constitution of India praying for issuance of a writ order or direction in the nature of WRIT OF HABEAS CORPUS, calling for records of the detention order No.187/BCDFGISSSV/2022 dated 21.12.2022 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the body of the detenu Mr.Govind Tulshyan, son of Bajranglal, male, aged 52 years and set him at liberty.

For Petitioner : Mr.S.Karthikeyan
for Mr.Ali Hasan Khan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

When the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] was listed in the Admission Board on 14.03.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 21.02.2023 inter alia assailing a detention order dated 21.12.2022 bearing Ref. No.187/BCDFGISSSV/2022 made by



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'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fourth respondent is the Sponsoring Authority.

2. Wife of the detenu is the petitioner.

3. Mr.A.John, learned 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 406, 420 of IPC r/w 34 and 33 of Information Technology Act, 2000 in Central Crime Branch Crime No.36 of 2022.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sandoffenders, 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].

5. The detention order has been assailed inter alia on the grounds that the documents relied upon by the detaining authority have not been furnished to the detenu and there is a delay in considering the representation sent by the petitioner.

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. .'



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2. The aforementioned order made in the 14.03.2023 Admission listing shall be read as an integral part and parcel of this order which means that the short forms, short references and abbreviations used in the order in the Admission listing shall be used in the instant order also.

3. There is one adverse case and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.36 of 2022 on the file of Central Crime Branch for alleged offences under Sections 406, and 420 of IPC read with Sections 34 and 33 of Information Technology Act, 2000. Owing to the nature of the challenge to the impugned preventive detention order, it is not necessary to delve more into the factual matrix or be detained further by facts.

4. Mr.S.Karthikeyan, 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 Admission Board, the points that the documents relied upon by the detaining authority have not been furnished to the detenu and that there is delay in considering the representation sent by the petitioner have been raised, however, in the final disposal hearing, learned counsel



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predicated his argument on the point that the ground case i.e., CC/0000144 of 2023 on the file of Judicial Magistrate I, Poonamallee which constitutes substantial portion of substratum of the impugned preventive detention order has since ended in acquittal. Learned Prosecutor has placed before us a downloaded hard copy of the e-Courts Services screen and the same is as follows:

ECOURTS SERVICES

View Business

Daily Status
In The Court Of Judicial Magistrate No.1, Poonamallee
Civil Number: TNTR256008162023
Case Number: CC/0000144/2023
Inspector Of Police, CCB, EDH-II, Arwal, Versus Guvind
Thiruman And Harman Saherwal
Date: 21-05-2023

Business
A1 and A2 produced
impugned production. In
result, the learned AJ and
AJ are not found guilty for
offences under section 406,
420 and 34 IPC and acquittal
are recorded as per section
245(1) Cr.PC

Nature of Disposal : Acquitted
Disposal Date : 21-05-2023
Judicial Magistrate No.1 Poonamallee

[Signature]
JUDGE
JUDICIAL MAGISTRATE NO.1
POONAMALLEE



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6. Be that as it may, the acquittal order dated 31.05.2023 has also been placed before us by way of additional typed-set of papers. Suffice to say that there is no disputation or contestation that the ground case has since ended in acquittal. We find from the impugned preventive detention order that one other case (adverse case) has been referred to and that is Crime No.56 of 2022 on the file of Delhi Economic Offences Wing. Learned counsel submits that as regards the adverse case, it is still at the investigation stage as the detenu remained incarcerated on and from 29.11.2022 owing to the impugned preventive detention order.

7. The point canvassed in the final hearing board turns heavily on records and therefore, learned Prosecutor really does not have much of a say.

8. In the light of the ground case which constitutes substantial substratum of the impugned preventive detention order having ended in acquittal after full trial, we are of the considered view that the impugned preventive detention order deserves to be dislodged. To be noted, this view is taken on the facts and circumstances of the case on hand including the point that there is only one adverse case that has been cited and status of one adverse case is captured and alluded to supra. The sequitur is impugned



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preventive detention order deserves to be dislodged.

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9. Ergo, the captioned HCP is allowed. Impugned preventive detention order dated 21.12.2022 bearing reference No. 187/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Govind Tulshyan, male, aged 52 years, son of Bajranglal, 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.)

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Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa

**P.S. Registry to forthwith communicate this order to Jail authorities
Central Prison, Puzhal**



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To

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1. The Secretary
Home, Prohibition and Excise Department
Fort St.George Chennai – 600 009
2. The Commissioner of Police (Avadi)
Avadi Police Commissionerate
Type V, Qtr. No.5/1, HVF Estate
Bhaktavatsala Puram, Avadi
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5. The Public Prosecutor
High Court, Madras.



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and
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