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H.C.P.No.288 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

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

H.C.P.No.288 of 2023

Shanthalakshmi

.. Petitioner

Vs

1. The State of Tamil Nadu rep. By its
Secretary,
Department of Home, Prohibition and Excise,
Fort St. George, Chennai -9.
2. The Commissioner of Police,
Greater Chennai, Chennai – 7.
- 3.The Inspector of Police,
Team 9, Job Racketing Prevention Wing,
Central Crime Branch, Chennai – 7.
- 4.The Superintendent,
Central Prison, Puzhal - II, Chennai - 66.

.. 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 made in No.453/BCDFGISSSV/2022 dated 12.12.2022 on the file of the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Thiru.Sasikumar, male, 46 years,

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son of Lakshmanan, now confined at Central Prison, Puzhal II, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
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 27.02.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 20.02.2023 inter alia assailing a detention order dated 12.12.2022 bearing reference No.453/BCDFGISSSV/2022 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, third respondent is the Sponsoring Authority.

2.Wife of the detenu is the petitioner.

3.Mr.C.D.Sugumar, 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 r/w. 34 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.224 of 2022 on the file of Central Crime Branch-I, Job Racket Prevention Wing, Chennai.

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, Sand-



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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].

5.The detention order has been assailed inter alia on the ground that there is an inordinate delay in passing the detention order by the detaining authority.

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.'

2. The aforementioned order made in the 27.02.2023 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 are two adverse cases. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.224 of 2022 on the file of Central Crime Branch I for the alleged offences under Sections 406, 420 r/w 34 of IPC. 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.R.Sankarasubbu, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. As would be evident from the aforementioned 27.02.2023 order (more particularly paragraph 5 thereat) at the time of admission, learned counsel projected the point that there is inordinate delay in making the impugned preventive detention order but in the final hearing today, learned counsel on record for HCP petitioner predicated his campaign against the impugned preventive detention order on one point and that one point is different dates being given in the Adjudication and Remand Extension Order which is in English and the Tamil translation of the same.

6. Elaborating on the aforesaid point, learned counsel drew our attention to pages 595 and 597 of the grounds booklet and a scanned reproduction of the same is as follows:



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English Version:

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595

IN THE SPECIAL COURT OF C.C.B & CBCID METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI -8.

Present: Tmt. P. Revathi, B.A., B.L.,
Metropolitan Magistrate, Special Court of CCB & CBCID.

Cr.No.224/2022
U/Sec. 406, 420, r/w 34 IPC

Inspector of Police,
Special Crime Branch,
Chennai-600 007.

Complainant, M/A.46,
Lakshmanan.

//Vs//



...Accused

ADJUDICATION AND REMAND EXTENSION ORDER
SPECIAL COURT OF CCB & CBCID METROPOLITAN MAGISTRATE

Seen the Accused Video Conference, Remand is Extended till 30.11.2022

Sd/- CCB/rev

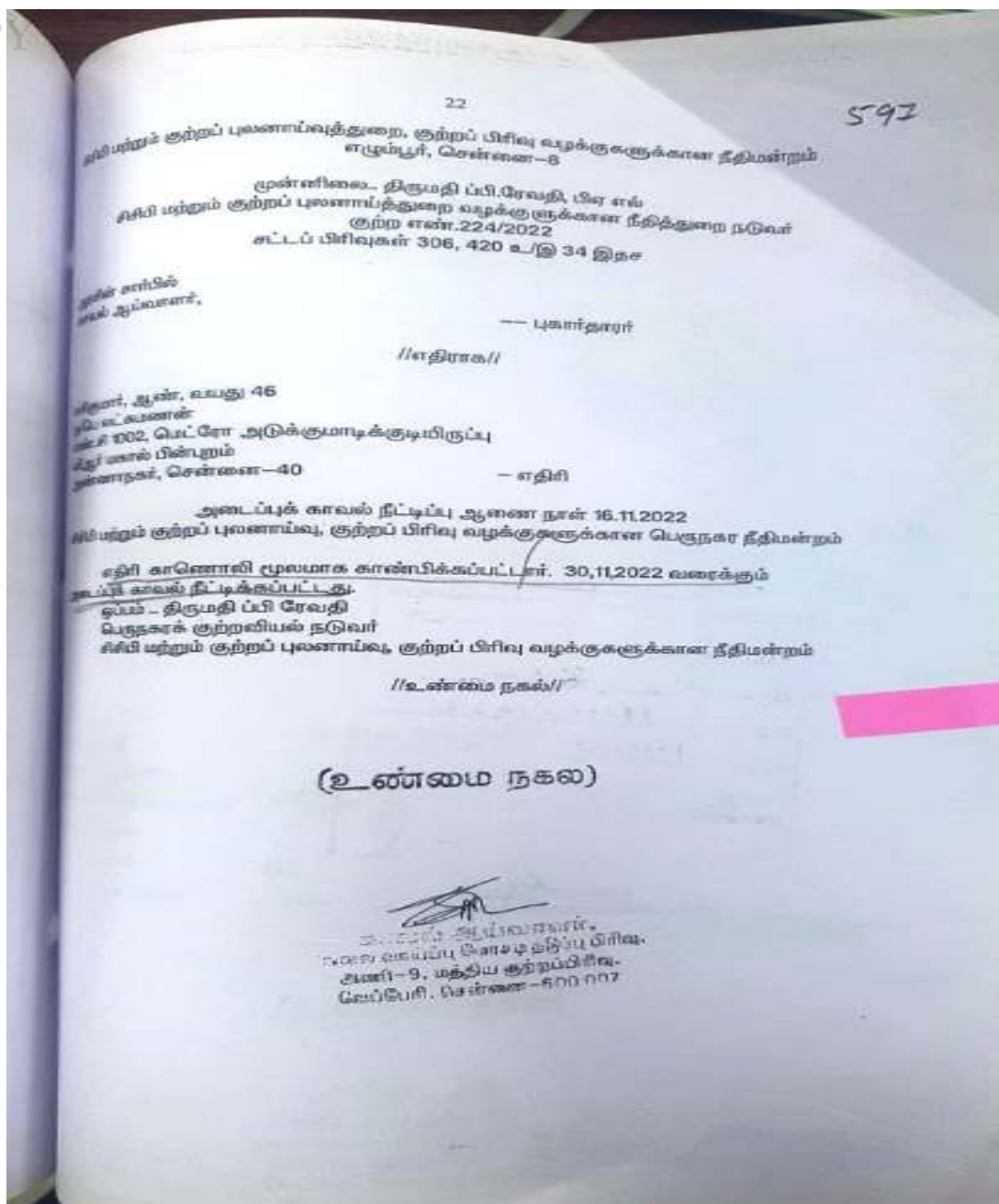
Accused not produced. To be produced next working day.

7
Sd/-Tmt. P. Revathi,
Metropolitan Magistrate.
Special Court of CCB & CBCID.



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Tamil Version:





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7. As already alluded to supra, the Adjudication and Remand Extension Order in English says '*30.11.2022: Accused not produced. To be produced next working day*' whereas in Tamil translation, there is no mention about 30.11.2022 order.

8. The above point turns solely on records before us and therefore learned Prosecutor really does not have much of a say.

9. Be that as it may, the aforementioned date in Adjudication and Remand Extension Order in English and Tamil translation of the same is that of a nature which can baffle the detenu, impairing his right to make an effective representation against the impugned preventive detention order. To be noted, right of a detenu to make a representation i.e., an effective representation against a preventive detention order is a sanctus/sacrosanct constitutional safeguard ingrained in Article 22(5) of the Constitution of India and therefore the infraction of the same vitiates the impugned preventive detention order and leaves the preventive detention order liable for dislodgement in this habeas legal drill.



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10. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 12.12.2022 bearing reference No.453/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Sasikumar, aged 46 years, Son of Thiru.Lakshmanan, 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.)
10.07.2023

Index : Yes/No

Neutral Citation : Yes/No

mmi

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

To

1. The Secretary to Government,
Department of Home, Prohibition and Excise,
Fort St. George, Chennai -9.
2. The Commissioner of Police,
Greater Chennai, Chennai - 7.
- 3.The Inspector of Police,
Team 9, Job Racketing Prevention Wing,
Central Crime Branch, Chennai - 7.
- 4.The Superintendent,
Central Prison, Puzhal - II, Chennai - 66.
- 5.The Public Prosecutor
High Court, Madras.

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

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