



H.C.P.No.329 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

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

H.C.P.NO.329 OF 2023

Subbulakshmi

.. Petitioner

Vs

1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police
Greater Chennai
Chennai City.

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

4.The Inspector of Police
H-6, R.K.Nagar Police Station,
Chennai.

.. Respondents

1/11



H.C.P.No.329 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent dated 03.02.2023 in BCDFGISSSV No.31/2023 against the petitioner husband Thiru. Sankar @ Gowri Sankar, male aged about 27 years, son of Ravi, 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.A.Venkateswara Babu

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 06.03.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 24.02.2023 inter alia assailing a detention order dated 03.02.2023 bearing reference No.31/BCDFGISSSV/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of



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convenience and clarity]. To be noted, fourth respondent is the Sponsoring Authority.

2.Wife of the detenu is the petitioner.

3.Mr.A.Venkateswara Babu, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 294(b), 323, 336, 427, 392, 397 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.27 of 2023 on the file of H6 R.K.Nagar Police Station.

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-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 family members of the detenu are not informed about the detention which prevented to make an effective representation.

*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.'

3. There are five adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.27 of 2023 on the file of H-6 R.K.Nagar Police Station for alleged offences under Sections 341, 294(b), 323, 336, 427, 392, 397 and 506(ii) of 'The Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity]. 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.A.Venkateswara Babu, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5.In the final hearing Board, Mr.A.Venkateswara Babu, learned counsel on record for petitioner projected his argument qua his campaign against the impugned preventive detention order on one point though several grounds have been raised /urged in the support affidavit. The one point that was canvassed in the final hearing Board turns on drastic difference in CrI.M.P. Number and date of occurrence in the English and Tamil versions of bail orders at pages 172 and 175 of the grounds booklet served on the detenu. A scanned reproduction of these two pages is as follows:



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IN THE COURT OF HON'BLE PRINCIPAL SESSION JUDGE
AT CHENNAI

Cr.M.P.No. 2709 of 2023

In

Crime No. 27 of 2023

(On the file of the Inspector of Police,
11-6, R.K.Nagar Police Station, Chennai.)

Sankar @ Gowri Sankar, M/A-26,
son of Rav,
No.28/13, Meenambal Nagar 4th Street,
Porukkupet,
Chennai - 600 021.

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
11-6, R.K.Nagar Police Station,
Chennai.

Petitioner/Accused

...Respondent/Complainant

PETITION FOR BAIL UNDER SECTION 439 OF Cr.PC

The Petitioner above named states as follows:

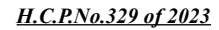
1. The address for service on the Petitioners is that of their counsel, M/s. M.ILLIYAS, A.VENKATESWARA BABU & M.MOHAMADHU AJAR Advocates, having office at Old No.40/9, 52/9, Friends Complex, Mannady, Chennai - 600 001.

The address for service on the respondent is the same as stated above.

2. The Petitioner state that he was arrested by the respondent police on 14.01.2023 and was remanded for the alleged offence u/s. 341, 294(b), 323, 336, 427, 392, 397, 506(I) of IPC.

As stated above

116 R.K.NAGAR POLICE STATION
CHENNAI-600 021



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<https://www.mhc.tn.gov.in/judis>



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6.Learned counsel points out that Crl.M.P.No.2709 of 2023 in English is wrongly shown as Crl.M.P.No.2838 of 2023 in Tamil translation and the date of occurrence (14.01.2023) has also been wrongly shown as 14.11.2023 in the Tamil translation of the bail order.

7.Learned counsel submitted the aforementioned confusion is so drastic that it can baffle anybody. The detenu being baffled on this aspect of the matter was put him under a huge disadvantage in making an effective representation against impugned preventive detention order.

8.As the aforesaid point turns heavily on records, learned Prosecutor really has little say i.e., no say.

9.In the light of the narrative thus far, this Bench has no difficulty in accepting the argument that the detenu's sacrosanct right to make an effective representation against the impugned preventive detention order has been impaired. To be noted, this sacrosanct / sanctus right is a constitutional safeguard ingrained in Article 22(5) of Constitution of India.



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The sequitur is, impugned preventive detention order deserves to be dislodged as it is vitiated owing to infraction of Article 22(5).

10.Ergo, captioned HCP is allowed. Impugned detention order dated 03.02.2023 bearing reference Memo No.31/BCDFGIISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Sankar @ Gowri Sankar, aged 27 years, son of Thiru. Ravi, 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.)

17.07.2023

Index : Yes

Neutral Citation : Yes

TK

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



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To

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- 1.The Secretary to Government
Home, Prohibition and Excise Department
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner of Police
Greater Chennai
Chennai City.
- 3.The Superintendent of Police
Central Prison
Puzhal, Chennai.
- 4.The Inspector of Police
H-6, R.K.Nagar Police Station,
Chennai.
- 5.The Public Prosecutor
High Court of Madras.



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M.SUNDAR, J.
AND
R.SAKTHIVEL, J.

TK

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