



H.C.P.No.348 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.348 OF 2023

Maheswari

.. Petitioner

Vs

1.State of Tamil Nadu
Rep. By Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai – 600 009.

2.The Commissioner of Police
Greater Chennai.

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

4.State Rep. By Inspector of Police
P-6, Kodungaiyur Police Station,
Chennai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the records of the



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2nd respondent pertaining to the order made in No.495/BCDFGISSSV/2022 dated 30.12.2022 in detaining the detenu under the Tamilnadu Act 14/1982 as a Goonda and quash the same and direct the respondents to produce the detenu, namely Paramasivam @ Parma (detenu) aged about 35 years, son of Kuppan who is detained at the Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.A.Venkateswara Babu
for Mr.P.Sridhar

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 wife of detenu assailing a 'preventive detention order dated 30.12.2022 bearing reference No.495/BCDFGISSSV/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 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are three adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.847 of 2022 on the file of P-6 Kodungaiyur Police Station for alleged offences under Sections 341, 294(b), 336, 427, 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 representing Mr.P.Sridhar, 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 representing the learned counsel on record for the 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 dates in the English and Tamil versions of remand orders at pages 83 and 84 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 X METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI - 6.

Present: Thiru. P. Chandrasekar, L.L.M.,
VI Metropolitan Magistrate.

Cr.No.817/2022
U/Sec.311, 294(b), 330, 427, 307, 506(b) IPC

Inspector of Police (L&O),
Pb. Kodungalur Police Station,
Chennai-118



Pannasivamy @ Parmu, M/A.35,
S/o. Kuppan,
No.02 CSI Pulli Pulakalai Street,
Ambethkar Nagar, Kodungalur,
Chennai-118

Accused

**REMAND ORDER DATED 15.12.2022
OF X METROPOLITAN MAGISTRATE COURT**

Accused Produced before me at 8.00 PM before Egmor Crm Records
personel. Prima facie case is made out. As per duty doctor report the accused having
multiple lacerations on left forearm and he stated that the accused is conscious and
oriented. Hence I Satisfied that the legal aid is necessary for this case. Circumst of
the case and free legal aid informed. No complaints against Police. In this circumstance
the accused is remanded till 19.12.2022.

Sd/- Thiru P. Chandrasekar,
VI Metropolitan Magistrate,
I/VI X Metropolitan Magistrate.

Copied by Typist : *[Signature]*
Complied by Examiner : *[Signature]*
No. of Pages : 1
No. of Words : 130
No. of Corrections : Nil

[Signature]
Copyist Superintendent

[Signature]
Pb. Officer, Kodungalur Police Station,
Chennai-118

Scanned with OKEN Scanner



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சென்னை-8, எழும்பூர், 10-வது பெருநகர குற்றவியல் நடுவர் நீதிமன்றம்
முன்னிலை- திரு. பி. சந்திரசேகர், பி.எ., பி.எஸ்., என்.என்.என்.
6வது பெருநகர குற்றவியல் நீதிமன்ற நடுவர்

குற்ற எண்.347/2022
(ச/பி 341, 294(பி), 336, 427, 397, 506(ii) இயல்)

அரசு சார்பாக
காவல் ஆய்வாளர்,
பி-6 மொடுங்கையூர் காவல் நிலையம்
சென்னை-118.

புகார்தாரர்

// எதிராக //

அரசியல் (எ) பர்மா, ஆ/வ 35.
திரு. குப்தன்,
கண்.02, சிஎஸ்பி பள்ளி, எடசாலை தெரு,
தம்பேநகர் நகர், மொடுங்கையூர்,
சென்னை-118.

எதிரி

**10-வது பெருநகர குற்றவியல் நீதிமன்றத்தில் 14.12.2022 அன்று
வழங்கப்பட்ட நீதிமன்றக் காவல் ஆணை**

எதிரி இன்று பிற்பகல் 06.00 மணிக்கு எழும்பூர் நீதிமன்றத்தில் என்.முன்பாக ஆஜர்
புகட்டப்பட்டார். ஆவணங்கள் பரிசீலிக்கப்பட்டன. போதிப், சாட்சியங்களில் நிறுவப் பெற்ற
வழக்கு என தெரிவித்தது. பணியிலிருந்து மருத்துவரின் அறிக்கையின்படி, எதிரிக்கு அவரது
மூட்டு முன்வாங்கையில் பலமுற்பட்ட சிதிபட்ட காயங்கள் உள்ளன என தெரிவிக்கப்
பட்டுள்ளதோடு, எதிரி கயநிலைவாதி தான் உள்மார் எனவும் தெரிவிக்கப்பட்டுள்ளது.
கனவே, இவ்வழக்கில் சட்டப்படி காவலில் அடைப்ததன் அலசியும் குறித்து நான்
தீர்ப்பியடைகிறேன். கைதுக்கான காரணங்கள் குறித்தும், இளைசு கூட உதவி கிடைக்கும்
வாழ்வு குறித்தும் விவரிக்கப்பட்டது. காவல் துறையினருக்கு எதிராக புகார் எழுமிக்கலை.
இதிக குற்றவியல் எதிரியை 29.12.2022 வரை நீதிமன்றக் காவலில் அடைக்க
அனுப்பிவைக்கிறது.

ஒப்பம்/- திரு. பி. சந்திரசேகர்
6வது பெருநகர குற்றவியல் நீதிமன்ற நடுவர்
(பொறுப்பு 10வது பெருநகர குற்றவியல் நீதிமன்ற நடுவர்)

/உண்மை நகலென்று சான்றளிக்கப்படுகிறது/

/உண்மை நகல்/

சென்னை-8, எழும்பூர், 10-வது பெருநகர குற்றவியல் நடுவர் நீதிமன்றம்
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6.Learned counsel points out that 15.12.2022 date in the English order is shown as 14.12.2022 in the Tamil translation of the remand order.

7.Learned counsel submitted that the aforementioned confusion is so drastic that it can baffle anybody. The detenu being baffled on this aspect of the matter has 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. The sequitur is impugned preventive detention order deserves to be dislodged as it is vitiated by infraction of Article 22(5) of Constitution of India.



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10.Ergo, captioned HCP is allowed. Impugned detention order dated 30.12.2022 bearing reference Memo No.495/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Paramasivam @ Parma, aged 35 years, son of Thiru. Kuppan, 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.
- 3.The Superintendent of Prison
Central Prison
Puzhal, Chennai.
- 4.The Inspector of Police
P-6, Kodungaiyur Police Station,
Chennai.
- 5.The Public Prosecutor
High Court of Madras.



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

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