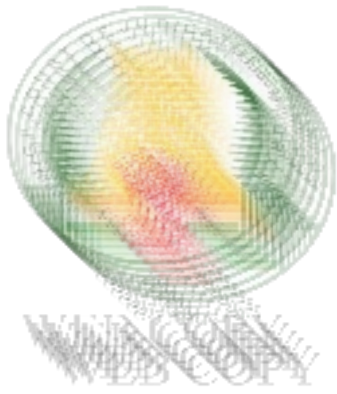




H.C.P.No.424 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

Coram

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

H.C.P.No.424 of 2023

L.Murugesan
S/o.Loganathan

.. Petitioner /Father of detenu

VS

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

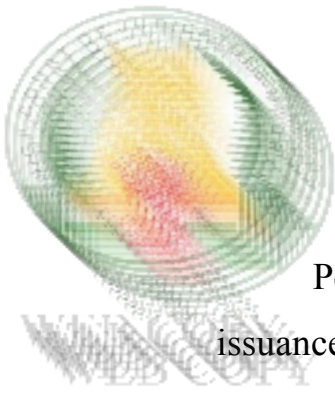
2.The District Collector and District Magistrate,
Chengalpattu District,
Chengalpattu.

3.The Superintendent of Police
Chengalpattu District,
Chengalpattu.

4.The Superintendent,
Central Prison,
Puzhal, Chennai – 600 066.

5. The Inspector of Police
G-1, Maduranthagam Police Station
Chengalpattu District.

.. Respondents



H.C.P.No.424 of 2023

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records relating to the detention order No.1/CPT/2023, dated 03.01.2023 passed by the 2nd respondent to produce the petitioner's son M.Ashok Kumar, Son of Murugesan, aged about 32 years, the detainee, now confined in Central Prison, Puzhal, Chennai before this Court and set aside the petitioner's son M.Ashok Kumar S/o.Murugesan aged about 32 years the detainee herein at liberty.

For Petitioner : Mr.A.Venkateswara Babu
for Mr.S.Apunu

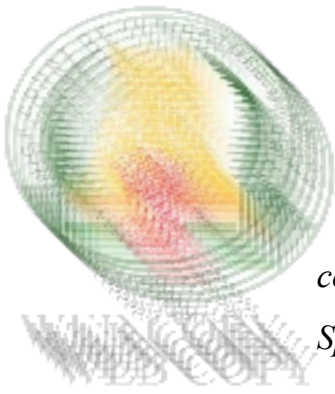
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

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 24.03.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 27.02.2023 inter alia assailing a detention order dated 03.01.2023 bearing Reference CPT No.01/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of



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

2. Father of the detenu is the petitioner.

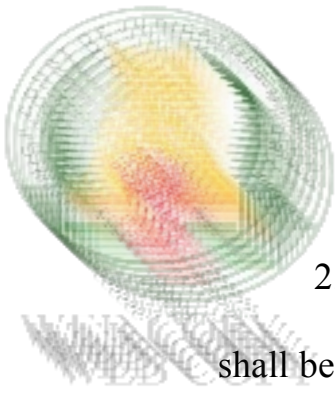
3. Mr.S.Apunu, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 294(b), 323, 324, 384, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.589 of 2022 on the file of Madurantakam 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 there is inordinate delay in considering the representation of the detenu.

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.'



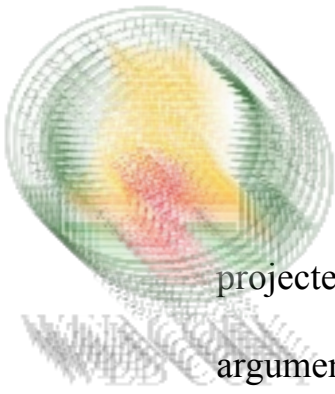
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2. The aforementioned order made in the 24.03.2023 Admission listing shall be read as an integral part and parcel of this order which means that the short forms, short references and abbreviations used in the order in the Admission listing shall be used in the instant order also.

3. There 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.589 of 2022 on the file of Madurantakam Police Station for alleged offences under Sections 341, 294(b), 323, 324, 384, 307 and 506(ii) of '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 preventive detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.A.Venkateswara Babu, learned counsel representing counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

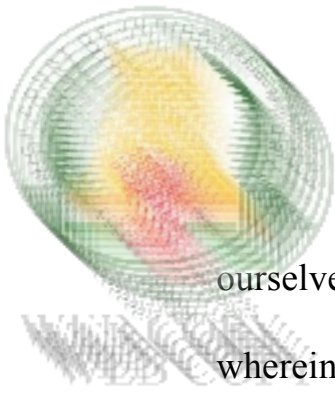
5. At the time of admission board, the point that there was an inordinate delay in considering the representation of the detenu was



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projected but in the final hearing, learned counsel for petitioner projected his argument qua challenge to the impugned detention order on one point and that one point turns on not providing translated copy of a documents (relied on by the detaining authority) in a language which the detenu is conversant with. Learned counsel adverting to page Nos.27, 29, 31 to 39, 75, 77, 79 to 85, 125, 127, 129 to 135, 189 and 191 of the grounds booklet submitted that copy of Remand Order, Remand Extension Order and the bail petition (3 adverse cases and one ground case) in Tamil has not been given to the detenu. We had the benefit of perusing the booklet. We also noticed that in the impugned preventive detention order there is one ground case and three adverse cases. The Remand Order, Remand Extension Order and the bail petition in all four (3 adverse cases and 1 ground case), which are form part of the ground on which the impugned detention order has been made are not furnished to the detenu in Tamil. As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

6. As far as the literacy level is concerned, the detenu has signed in the confession statement in Tamil and he is a Call Taxi driver by avocation. We are also informed that the detenu is conversant only with Tamil. We remind



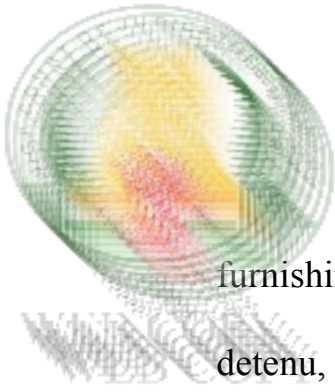
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ourselves of Powanammal case i.e., ***Powanammal Vs. State of Tamil Nadu***, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, Powanammal case is reported in ***(1999) 2 SCC 413*** and paragraphs 6 and 16 {as in SCC journal} read as follows:

'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

7. We find that the aforementioned ***Powanammal*** case applies in all fours to the case on hand as we find that Remand Order, Remand Extension Order and Bail petition which have been relied on as part of the grounds of detention qua impugned detention order are crucial documents and not



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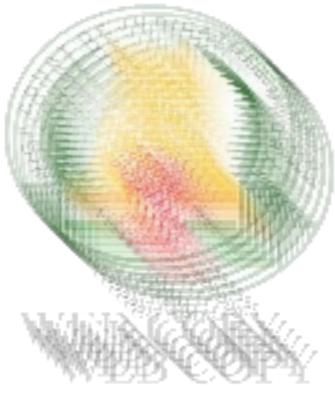
furnishing translation of the same in Tamil, the lone language known to the detenu, has impaired his constitutional right to make an effective representation qua the impugned detention order. We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 03.01.2023 bearing reference CPT No.01/2023 made by the second respondent is set aside and the detenu Thiru.Ashokkumar, aged 32 years, son of Thiru.Murugesan 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.)
24.07.2023

Index : Yes
Speaking order
Neutral Citation : Yes
rsi

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



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

rsi

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department
Secretariat, St. George Fort,
Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Chengalpattu District,
Chengalpattu.
- 3.The Superintendent of Police
Chengalpattu District,
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- 4.The Superintendent,
Central Prison,
Puzhal,
Chennai – 600 066.
5. The Inspector of Police
G-1, Maduranthagam Police Station
Chengalpattu District.
- 6.The Public Prosecutor,
High Court, Madras.

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24.07.2023