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H.C.P.No.378 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.378 OF 2023

Madhumitha

.. Petitioner

VS

1.State of Tamil Nadu

Rep. By the Additional Secretary
Home, Prohibition and Excise Department
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police

Avadi City,
Type V, QTR No.5/1, HVF Estate,
Avadi, Chennai – 600 054.

3.The Inspector of Police

T-3, Korattur Police Station,
Chennai.

4.The Superintendent of Prison

Central Prison – II,
Puzhal, Chennai – 600 066.

.. Respondents

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



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relating to the detention order in Memo No.32/ BCDFGISSSV/2023 dated 10.02.2023 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondent to produce the petitioner's husband Thiru. Saran S/o.Balachandar, aged about 22 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Thiru. Saran, S/o.Balachandar, aged about 22 years the detenu herein at liberty.

For Petitioner : Mr.R.Muthukumar
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 15.03.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 07.03.2023 inter alia assailing a detention order dated 10.02.2023 bearing reference Memo No.32/BCDFGISSSV/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, third respondent is the Sponsoring Authority.

2.To be noted, wife of the detenu is the petitioner.



3.Mr.P.Muthumari, 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, 336, 427, 397 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] in Crime No.72 of 2023 on the file of T-3, Korattur 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 tamil version of Court Surrender Form was not furnished to the detenu, which prevented the detenu from making an effective representation.

6.Prima facie case made out for admission.
Admit. Issue Rule nisi returnable by four weeks.



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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 15.03.2023 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 four adverse cases and one ground case. The ground case which constitutes part of substratum of the impugned preventive detention order is Crime No.72 of 2023 on the file of T-3, Korattur Police Station for alleged offences under Sections 341, 294(b), 323, 336, 427, 397 and 506(ii) of IPC. 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.R.Muthukumar, learned counsel on record for petitioner



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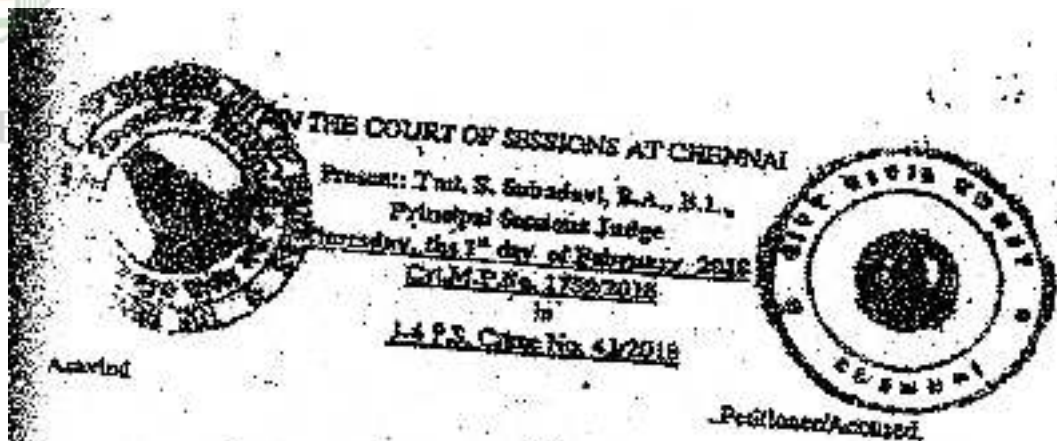
and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5.At the time of admission i.e., in the admission board, the point that tamil version of Court Surrender Form was not furnished to the detenu was urged but in the final hearing today, learned counsel on record for petitioner projected his argument qua challenge to the impugned preventive detention order on one point and that one point turns on incorrect/improper translation of similar case bail order. Learned counsel adverting to pages 113 and 114 [similar case bail order in English] and 115 and 116 [similar case bail order in Tamil] of the grounds booklet submitted that similar case bail order was not properly translated in Tamil. We deem it appropriate to scan and reproduce the similar case bail orders in English version and Tamil version in the grounds booklet and the same is as follows:



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State by:
Inspector of Police,
Jeeva Nagar Police Station,
Chennai.

Respondent/Complainant.

This petition coming on this day before me for hearing in the presence of Mr. J. Vengopal S. Tamil Selvan, Counsel for the petitioner and of CPT for respondent and upon hearing them, this court delivered the following:

1. Petitioner seeks grant of bail w/o 499 Cr.P.C. for the alleged offences w/o 294(b), 341, 323, 397, 336, 427 and 506(II) IPC.

2. Heard both sides.

3. Learned counsel for the petitioner submits that the petitioner has been in custody for the past 15 days. He has been falsely implicated in this case. He has not committed any offence as alleged by the prosecution. False case has been filed on him only for ulterior purpose. The petitioner has no bad antecedents. He is ready to abide by any condition that may be imposed on him. Therefore, he may be released on bail.

4. The case of the prosecution is that this petitioner robbed Rs.415/- and a wrist watch from the defacto complainant at knife point. Hence, the FIR.

5. Learned CPT submits that the petitioner is also involved in two other cases including one murder case. However, he further submits that the petitioner is on bail in the other cases pending against him and that the property involved in this case has been traced.

6. The petitioner has been in custody for the past 15 days. Period for taking custodial interrogation is over. Major portion of investigation might have been completed by this



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The murder case pending against the petitioner is of the year 2012 and the petitioner is of the year 2014 and he is on bail in these cases and it is represented by the petitioner that the petitioner is regularly appearing before the trial court in these cases and all the other factors into consideration. This order is issued to grant bail to the petitioner subject to the following condition.

1. (i) Bail is granted.

(ii) Petitioner is required to be released on bail on his executing a bond for Rs.10,000/- with two sureties, one must be a Government Servant, with for a witness on the execution of the bonded. (iii) Metropolitan Magistrate, Chennai.

(iii) The petitioner shall appear before the competent police daily at 10.30 a.m. for trial.

Delivered by me in the open court today.

Principal Sessions Judge

For

- 1. Metropolitan Magistrate, Chennai.
- 2. J.P. Chennai.
- 3. Inspector of Police, I-4 Kotturpuram Police Station, Chennai.
- 4. Superintendent, Central Prison, Barakat, Chennai.



முதுகன்மை தயார்வு தீர்மானத்தின்படி, சென்னை
கலிதா பஞ்சாயத்து, மதுரை 1759/2019

தே-4 கோட்டிப்பள்ளம் காவல் துறைமுக சூத்திர எண் 45/2018
(கருநாடகம்) கோட்டிப்பள்ளம் காவல் துறைமுக சூத்திர எண் 45/2018

Prati, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695

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॥ श्रीगणेशाय ॥

உ.ப.க. தலைவர் அவர்கள் தலைமையில்
உ.ப.க. தலைவர் அவர்கள் தலைமையில்
உ.ப.க. தலைவர் அவர்கள் தலைமையில்
உ.ப.க. தலைவர் அவர்கள் தலைமையில்

[illegible][illegible]

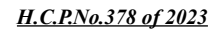
실용영어 2

சென்னை நகராட்சி கட்டிடத்துறை 841, 294(b), 323, 397, 336, 427, 505(1) இ-க.ச.
சென்னை நகராட்சி கட்டிடத்துறை கட்டிடத்துறை கட்டிடத்துறை 439 இது மதுரைநகர்
கட்டிடத்துறை.

* நிரந்தரத் தோஷப்படிப்பு.

மேலும், 18 நூல்களாக சிவபிரகாசம் என்றும் இந்த வழக்கில் அமைந்திருக்கப்படுகின்றன. அன்றும் திரைக்கப்படமாக கருப்பியும் திரைப்படமாக அமைந்திருக்கின்றன என்றும் அமைந்திருக்கின்றன. மேலும், 18 நூல்களாக சிவபிரகாசம் என்றும் இந்த வழக்கில் அமைந்திருக்கப்படுகின்றன. அன்றும் திரைக்கப்படமாக கருப்பியும் திரைப்படமாக அமைந்திருக்கின்றன என்றும் அமைந்திருக்கின்றன.

2000 1500



9/14



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6.We had the benefit of perusing the booklet. We also noticed that similar case bail orders form part of the ground on which the impugned detention order has been made. We find that the similar case bail order in Tamil version is incorrect / improper translation. 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.

7.Be that as it may, we are informed that the literacy level of the detenu is 12th standard and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind 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:



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'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. '

8.In the case on hand, we find that similar case bail order which has been relied on as part of the grounds of detention qua impugned detention order is a crucial document and not furnishing correct 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.



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9.Ergo, the sequitur is, captioned HCP is allowed. Impugned

detention order dated 10.02.2023 bearing reference

No.32/BCDFGISSSV/2023 made by the second respondent is set aside

and the detenu Thiru. Saran, aged 22 years, Son of Thiru. Balachandar 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 Additional Secretary to Government
Department of Home, Prohibition and Excise
Secretariat, Fort St. George,
Chennai.
- 2.The Commissioner of Police
Avadi City,
Type V, QTR No.5/1, HVF Estate,
Avadi, Chennai – 600 054.
- 3.The Inspector of Police
T-3, Korattur Police Station,
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- 4.The Superintendent of Prison
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- 5.The Public Prosecutor
High Court, Madras.



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