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H.C.P.No.403 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

Coram

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

H.C.P.No.403 of 2023

Kala

.. Petitioner

VS

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Ranipet, Ranipet District.
- 3.The Superintendent of Police,
Ranipet, Ranipet District.
- 4.The Superintendent,
Central Prison, Vellore.
- 5.The Inspector of Police,
Sholinghur Police Station,
Ranipet District.

.. 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 passed by the 2nd
respondent dated 19.12.2022 in Memo B3/D.O.No.76/2022 against



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the petitioner's son Dhamodharan, M/24 years, son of Nehru, who is confined at Central Prison, Vellore and set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

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

ORDER

[Order of the Court was made by M.SUNDAR, J.]

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by mother of the detenu assailing 'detention order dated 19.12.2022 bearing reference B3/D.O.No.76/2022' [hereinafter 'impugned detention order' for the sake of convenience]. To be noted, the fifth respondent is the sponsoring authority and the second respondent is the detaining authority as impugned detention order has been made by the second respondent.

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



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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 two adverse cases. The ground case which constitutes substantial part of substratum of the impugned detention order is Crime No.276 of 2022 on the file of Sholinghur Police Station for alleged offences under Sections 147, 148, 341, 294(b), 302 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 detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.A.Saranraj, 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 affidavit filed in support of captioned HCP, several points/grounds have been raised/urged but in the final hearing today, Mr.A.Saranraj, learned counsel for petitioner predicated his



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campaign against the impugned preventive detention order on one point and that one point turns on subjective satisfaction arrived at by the detaining authority qua imminent possibility of detenu being enlarged on bail.

6. Elaborating on the above point, learned counsel drew our attention to a portion of paragraph 5 of the grounds of impugned preventive detention order and that portion reads as follows:

'5....I am aware that Thiru.Dhamodharan has not filed a bail application before any court in ground case in Sholinghur Police Station Crime No.276/2022 u/s.147, 148, 341, 294(b), 302 IPC. However, information from reliable sources reveals that he is intending to file a bail petition through his relative...'

7. Adverting to the aforementioned portion, learned counsel submitted that the detaining authority has taken note of the fact that the detenu has not moved any bail application in the ground case but the detaining authority has proceeded on the basis that he has information from reliable sources that the detenu is intending to move bail petition through his relatives. Learned counsel submitted that this is not supported by any material much less credible



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material as would be evident from the grounds booklet. We had the benefit of perusing the grounds booklet and we find that the submission of learned counsel for petitioner is acceptable.

8. In response to the above argument, learned Prosecutor submitted that the detaining authority has relied on information supplied to him by the sponsoring authority. In our considered view, absent any material to support this, more particularly in the grounds booklet, this would get moved into the realm of surmises and conjectures. Subjective satisfaction more so subjective satisfaction qua imminent possibility of a detenu being enlarged on bail cannot be arrived at on the basis of anything in the realm of surmises and conjectures. Therefore, we have no hesitation in saying that the aforementioned subjective satisfaction of detaining authority is clearly impaired and it does not pass muster qua a habeas legal drill. The sequitur is, impugned preventive detention order deserves to be dislodged.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 19.12.2022 bearing reference B3/D.O.No.76/2022 made by the second respondent is set aside and the detenu Thiru.Dhamodharan, aged 24 years, son of



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Thiru.Nehru, 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.)
04.07.2023

Index : Yes/No
Neutral Citation : Yes/No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Vellore.

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Ranipet, Ranipet District.
- 3.The Superintendent of Police,
Ranipet, Ranipet District.
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- 5.The Inspector of Police,
Sholinghur Police Station,
Ranipet District.
- 6.The Public Prosecutor,
High Court, Madras.



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

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