



H.C.P.No.441 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.441 of 2023

S.Thaslima

.. Petitioner

Vs.

1. The State of Tamil Nadu  
Rep. By its Additional Chief Secretary to Government  
Home, Prohibition and Excise Department  
Fort St.George  
Chennai – 600 009
2. The District Collector and District Magistrate  
Tiruvarur District  
Tiruvarur
3. The Superintendent of Police  
Tiruvarur District  
Tiruvarur
4. The Inspector of Police  
Muthupettai Police Station  
Muthupettai  
Tiruvarur District

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5. The Superintendent  
Central Prison  
Thiruchirappalli  
Thiruchirappalli District

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ order or direction in the nature of WRIT OF HABEAS CORPUS, calling for the records relating to the detention order dated 27.02.2023 made in detention order in C.O.C.No.13/2013 passed by the second respondent herein, quash the same and direct the respondents to produce the body of the detenu Neravy Suresh @ Suresh, son of Sudalaimuthu, aged 40 years who has been detained at Central Prison, Thiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.Murugabharathi  
For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor

### **ORDER**

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

This order will now dispose of the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity].



2. When the captioned HCP was listed before this Court 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 16.03.2023 inter alia assailing a detention order dated 27.02.2023 bearing Reference C.O.C.No.13/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fourth respondent is the Sponsoring Authority.*

2. *Wife of the detenu is the petitioner.*

3. *Mr.R.Muruga Bharathi, 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 4(1)(aaa), 4(1)(b), 4(1)(h) read with 4(1-A) of Tamil Nadu Prohibition Act and Sections 420, 465, 468, 471, 472, 328 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Rules 5 and 7 of Rectified Spirit Rules, 2000 in Crime No.50 of 2023 on the file of Muthupettai Police Station.*

4. *The aforementioned detention order has been made on the premise that the detenu is a 'Bootlegger' under Section 2(b) 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-*



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*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 grounds that the arrest of the detenu has not been informed to the family members of the detenu and several pages in the booklet furnished to the detenu are illegible.*

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.'*

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 two adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No. 50 of 2023 on the file of Muthupettai Police Station for alleged offences under Sections 4(1)(aaa), 4(1)(b), 4(1)(h) read with 4(1-A) of Tamil Nadu Prohibition Act and Sections 420, 465, 468, 471,



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472, 328 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Rules 5 and 7 of Rectified Spirit Rules, 2000. 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.R.Muruga Bharathi, learned 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 i.e., in the admission board, the points that the arrest of the detenu has not been informed to the family members of the detenu and several pages in the booklet furnished to the detenu are illegible were urged but today in the final hearing, Mr.R.Muruga Bharathi, learned counsel for the petitioner predicated his campaign against the impugned preventive detention order on the point that remand order in the ground case being an order dated 10.02.2023 has not been properly translated. In this regard, learned counsel drew our attention to pages 54 and 55 of the grounds booklet furnished to the detenu. Learned counsel pointed out that in the remand order, the offences in the Tamilnadu Prohibition Act, 1937



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[hereinafter 'said Prohibition Act' for the sake of brevity] have been mentioned alongside alledged offences under IPC offences. To be noted, alleged offences under said Prohibition Act are Sections 4(1)(aaa), 4(1)(b), 4(1)(h) and 4(1-A) and alleged IPC offences are Sections 420, 465, 468, 471, 472 and 328. Learned counsel drew our attention to the Tamil translation and submits that in Tamil translation said Prohibition Act offences have been mentioned but IPC offences have not been mentioned. Though the literacy level of the detenu has not been mentioned in the confession statement, learned counsel on instructions submits that the literacy level of the detenu is 8<sup>th</sup> Standard and he is a school dropout. Learned counsel also submitted that the detenu is working as a daily wager.

6. As the aforementioned point turns heavily on records, learned Prosecutor really does not have much of a say.

7. We carefully considered the submissions made by learned counsel for petitioner. As regards incorrect translation, it turns on ***Powanammal*** principle i.e., ***Powanammal Vs. State of Tamil Nadu*** reported in (1999) 2 SCC 413. We are convinced that the aforementioned error in the Tamil translation would certainly baffle the detenu. If the detenu is baffled, it



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means that it impairs the detenu's right to make an effective representation qua impugned preventive detention order, which is the constitutional safeguard ingrained in Article 22(5) of the Constitution of India. As there is impairment of constitutional safeguard, the impugned preventive detention order is vulnerable for being dislodged.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 27.02.2023 bearing reference C.O.C.No.13/2023 made by the second respondent is set aside and the detenu Thiru.Neravy Suresh @ Suresh, aged 40 years, son of Thiru.Sudalaimuthu, 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.)

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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, Tiruchirappalli.**



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To

WEB COPY

1. The Additional Chief Secretary to Government  
Home, Prohibition and Excise Department  
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2. The District Collector and District Magistrate  
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5. The Superintendent  
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Thiruchirappalli District
6. The Public Prosecutor  
High Court, Madras.



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

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