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H.C.P.No.587 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.587 of 2022

S.Indhra
W/o.Siva

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai-600 009.
2. The Commissioner of Police
Chennai City, Vepery, Chennai-600 007.
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai-600 066.

.. 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 relating to the detenu's detention order passed by the 2nd respondent BCDFGISSSV No.33/2022 dated 08.03.2022 and set aside the same and produce the detenu

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Vijay, male aged about 25, Son of Siva, now detained in Central Prison, Puzhal before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.S.Dhanasekar
For Respondents : Mr.R.Muniyapparaj
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 clarity] has been filed in this Court on 04.04.2022 assailing a 'detention order dated 08.03.2022 bearing reference BCDFGISSSV No.33/2022' [hereinafter 'impugned detention order' for the sake of convenience and clarity] made by the second respondent i.e., 'jurisdictional Commissioner of Police' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fourth respondent is the Sponsoring Authority.

2. Suffice to say that the impugned detention order has been made on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of '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].

3. It is not necessary to delve into facts as both learned counsel for petitioner and learned Additional Public Prosecutor submit in one voice that two co-detenus namely, Mr.Santhosh @ Mandai Santhosh, Son of Shanmugampillai and Mr.Tamilarasan @ Mottai, Son of Kumar who are co-accused in the ground case had moved HCP Nos.570 of 2022 and 576 of 2022 respectively and both HCPs were allowed by Hon'ble predecessor Benches by orders dated 19.12.2022 and 14.11.2022 respectively. Learned counsel for petitioner and learned Additional Public Prosecutor also submit without any disputation or disagreement that the impugned detention orders in the instant case and in the aforementioned two HCPs are *ad verbatim* the same. It is also submitted that the trajectory the matters have taken is also the same.

4. We find that I HCP (HCP No.570 of 2022) in the case of



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Mr.Santhosh @ Mandai Santhosh, Son of Shanmugampillai has been allowed on the point that a case which has been relied on for coming to the conclusion (subjective satisfaction) that there is imminent possibility of detenu being enlarged on bail is not a similar case and II HCP (HCP No.576 of 2022) which pertains to Mr.Tamilarasan @ Mottai, Son of Kumar, which has been allowed on the point of delay in considering the representation of the detenu. There is no disagreement that both these points are available in the case on hand as the detention orders are *ad verbatim* the same and the trajectory the matters have taken is also the same. One minor difference is delay in considering the representation. There is one day difference in number of days delay. Therefore, captioned HCP should also inevitably be disposed of in a similar manner. We deem it appropriate to extract and reproduce the aforementioned two orders of Hon'ble predecessor Bench (HCP Nos.570 and 576 of 2022) and scanned reproduction of the same are as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

H.C.P.No.570 of 2022

S.Ravi
S/o Sengeni

... Petitioner

Vs

1.The State of Tamil Nadu,
represented by its
Secretary to Government,
Prohibition and Excise Department, (Home),
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Chennai City, Vepery,
Chennai - 600 007.

3.The Superintendent of Prison,
Central Prison, Puzhul,
Chennai - 600 066.

4.The Inspector of Police,
B-1 Mylapore Police Station,
Chennai,

... Respondents

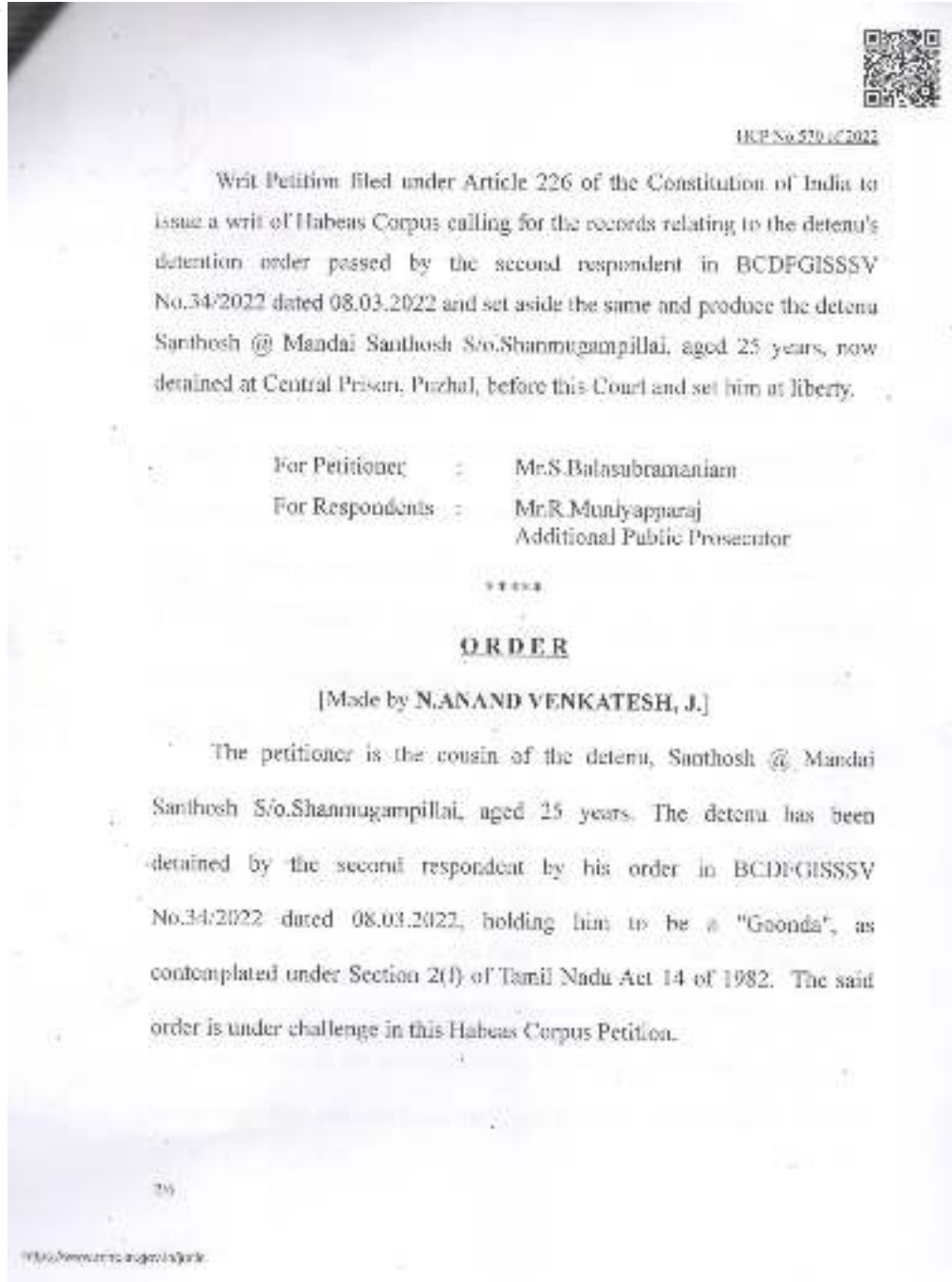
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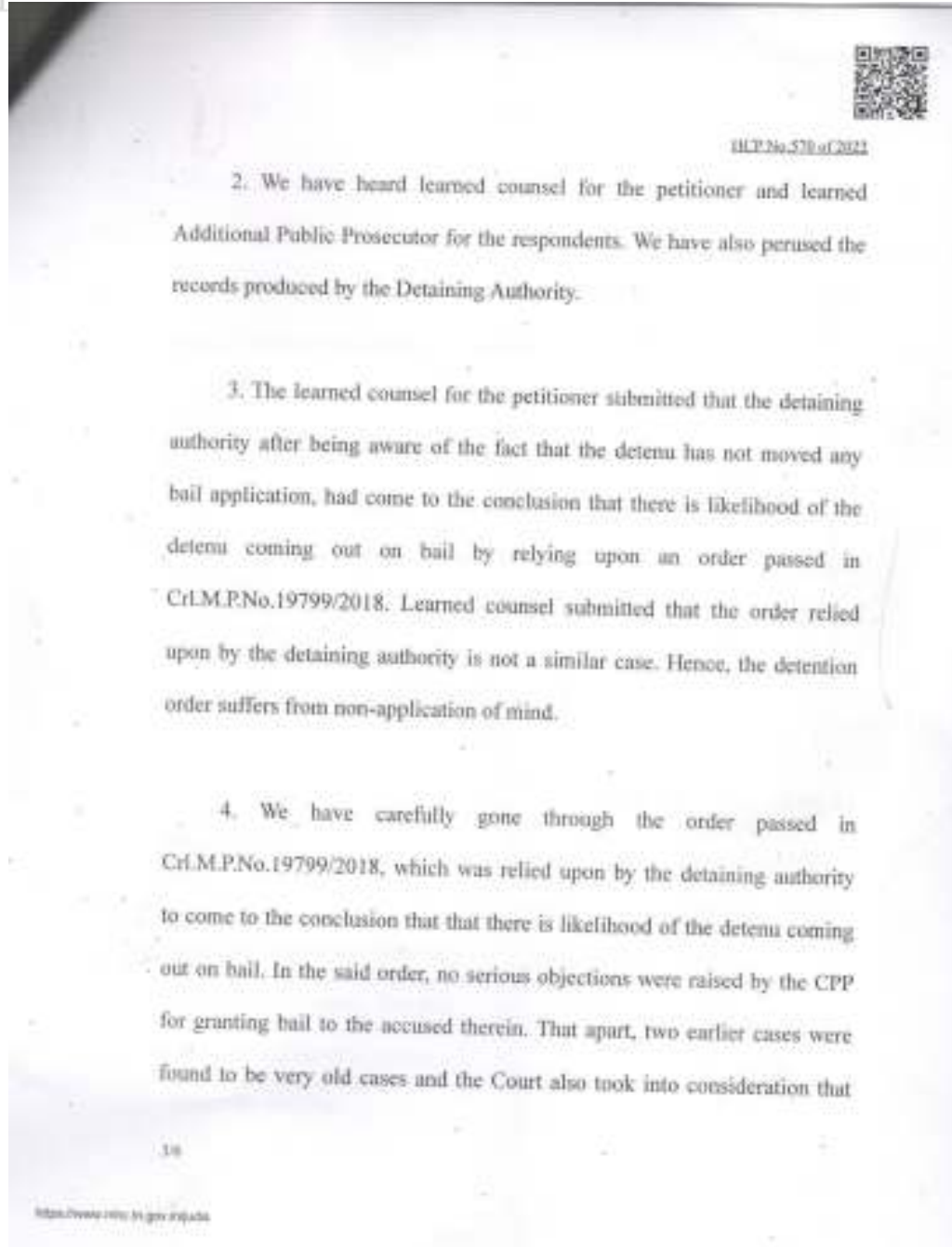
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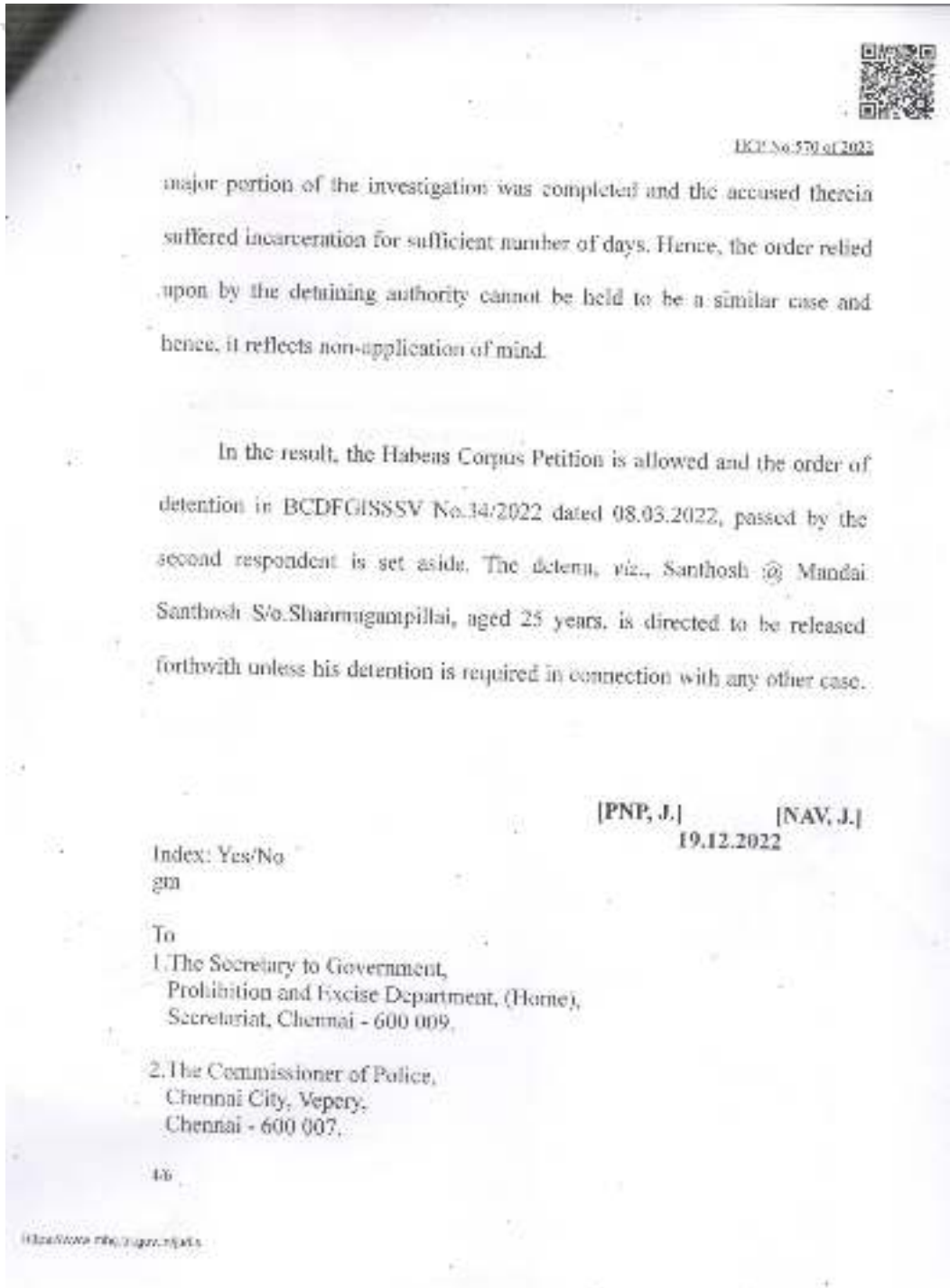
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H.C.P.No.576 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.576 of 2022

K.Yellammal .. Petitioner

Vs

1.State of Tamil Nadu represented by
its Secretary to Government,
Prohibition and Excise Department, (Home)
Secretariat,
Chennai-600 009.

2.The Commissioner of Police,
Chennai City,
Vepery,
Chennai - 600 007.

3.The Superintendent of Prison,
Central Prison,
Puzhal,
Chennai - 600 066.

4.The Inspector of Police,
E-1, Mylapore Police Station,
Chennai. .. Respondents

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H.C.P.No. 526 of 2022

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus call for the records relating to the detenu's detention order passed by the second respondent in BCDFGISSSV No.32/2022 dated 04.03.2022 and set aside the same and produce the detenu TAMILARASAN @ MOTTAI, male, aged about 23 years, son of Kumar, now detained in the Central Prison, Puzhal, before this Court and set him at liberty.

For Petitioner : Mr.S.Balasubramaniam

For Respondents : Mr.R.Muniyappa
Addl. Public Prosecutor

ORDER

(Made by P.N.PRAKASH J.)

The petitioner is the mother of the detenu TAMILARASAN @ MOTTAI, male, aged about 23 years, son of Kumar. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.32/2022 dated 04.03.2022, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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H.C.P.No.576 of 2022

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by plading authorities, submitted that the representation made on behalf of the detenu was not considered in time and there was an inordinate and unexplained delay.

4. The learned Additional Public Prosecutor strongly opposed the Habeas Corpus Petition by filing his counter. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

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5. The Detention Order in question was passed on 04.03.2022. A representation was made on behalf of the detenu on 04.04.2022. Thereafter, remarks were called for by the Government from the Detaining Authority on 06.04.2022. The remarks were duly received on 18.04.2022. Thereafter, the Government considered the matter and passed the order rejecting the representation on 22.04.2022.

6. It is the contention of the petitioner that there was a delay of 12 days in submitting the remarks by the Detaining Authority, of which, 6 days were Government Holidays and hence there was an inordinate delay of 6 days in submitting the remarks. It is the further contention of the petitioner that the remarks were received on 18.04.2022 and there was a delay of 4 days in considering the representation by the Hon'ble Minister for Home, Prohibition and Excise Department after the Deputy Secretary dealt with it, of which, there was no Government Holiday, hence, there was an inordinate delay of 4 days in considering the representation.

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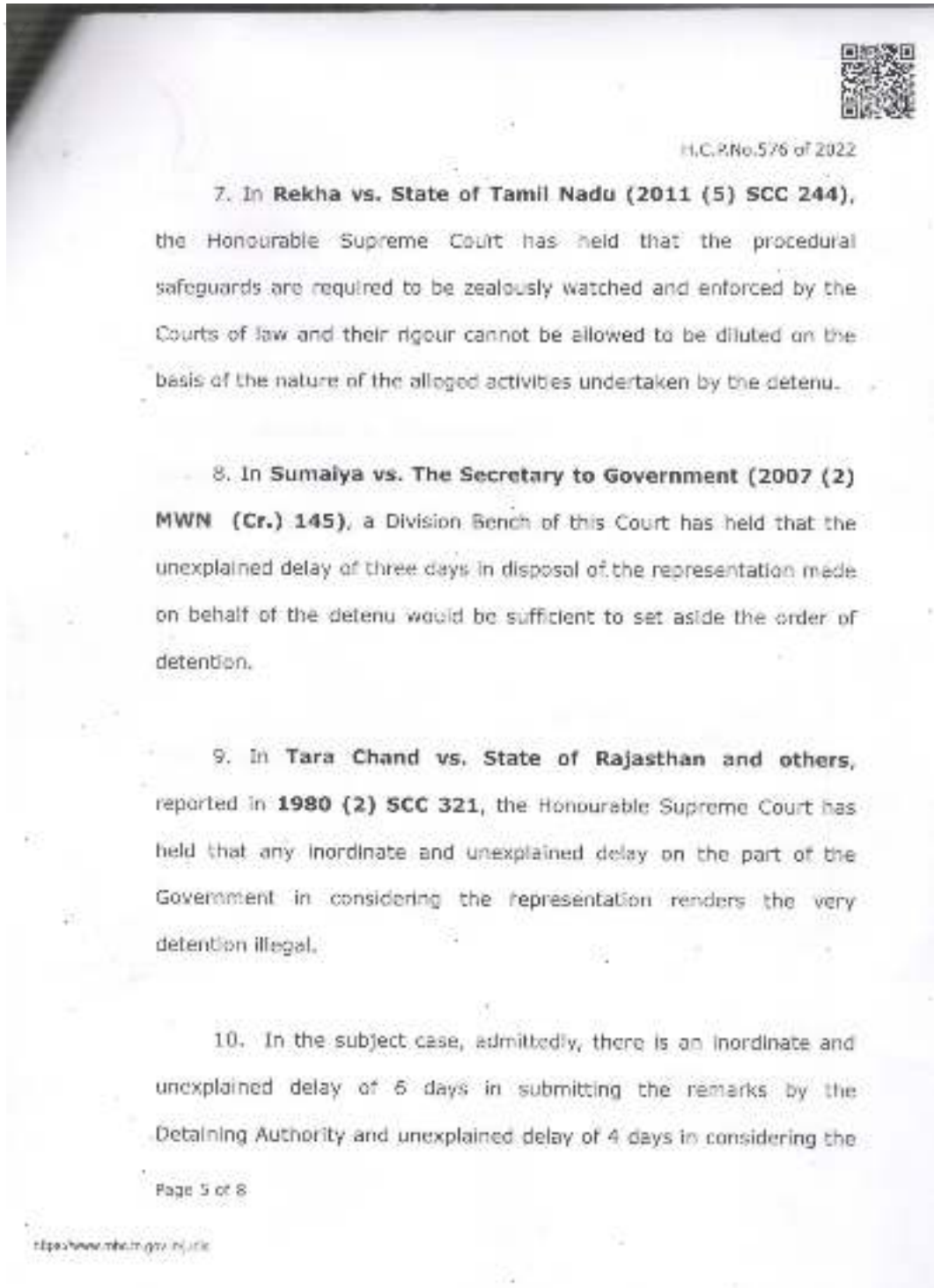
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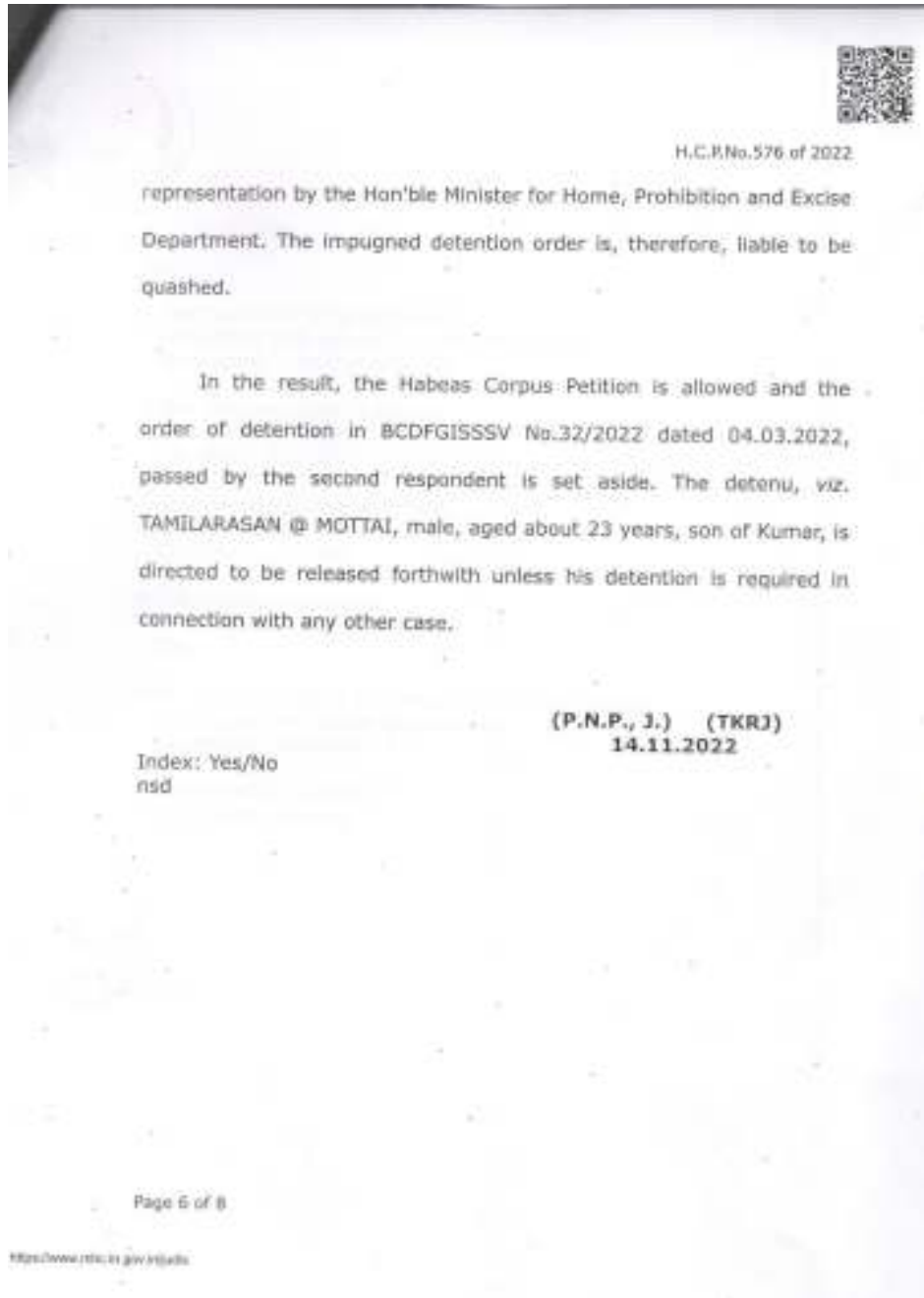




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5. In the light of the submission made by learned counsel for petitioner and learned Additional Public Prosecutor without any disputation or contestation which has been already alluded to supra, captioned HCP is allowed.

6. Impugned detention order dated 08.03.2022 bearing reference BCDFGISSSV No.33/2022 made by the second respondent is set aside and the detenu Mr.Vijay, Son of Siva, is directed to set at liberty forthwith, if not required in connection with any other case/s.

7. Captioned HCP ordered on the above terms. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

01.02.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

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

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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

mk

To

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Prohibition and Excise Department (Home)
Secretariat, Chennai-600 009.
2. The Commissioner of Police
Chennai City, Vepery, Chennai-600 007.
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai-600 066.
4. The Public Prosecutor
High Court, Madras.

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