



H.C.P.No.481 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

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

H.C.P.No.481 of 2023

S.Nelavathi

.. Petitioner

Vs

1. State rep. By
Secretary to the Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai -9.
2. The District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.
- 3.The Superintendent of Police,
Tiruvarur District.
- 4.The Superintendent of Prison,
Central Prison, Tiruchirappalli.
- 5.The Inspector of Police,
Muthupetai Police Station,
Tiruvarur 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 detention order passed by the second respondent

Page Nos.1/9



H.C.P.No.481 of 2023

dated 14.02.2023 in C.O.C. No.10/2023 against the petitioner's husband Sasikumar, aged 47 years, S/o.Palanivel, who is confined in Central Prison, Tiruchirappalli and set aside the detention order and direct the respondents to produce him before this Court and set him at liberty.

For Petitioner : Mr.T.Ananthasekar
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 29.03.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 20.03.2023 inter alia assailing a detention order dated 14.02.2023 bearing reference C.O.C.No.10/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. Wife of the detenue is the petitioner.



WEB COPY



H.C.P.No.481 of 2023

3. *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 the Tamil Nadu Prohibition Act, 1937 and Sections 420, 465, 468, 471, 472, 120B, 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 the Tamil Nadu Rectified Spirit Rules 2000 in Crime No.10 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-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 some of the pages in the booklet furnished to the detenu are not legible 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.*

7. *Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'*



H.C.P.No.481 of 2023

WEB COPY

2. The aforementioned order made in the 29.03.2023 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. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.10 of 2023 on the file of Muthupettai Police Station for the alleged offences under Sections 4(1)(aaa), 4(1)(b), 4(1)(h), read with 4(1-A) of the Tamil Nadu Prohibition Act, 1937 and Sections 420, 465, 468, 471, 472, 120B, 328 of IPC read with Rules 5 and 7 of the Tamil Nadu 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.T.Ananthasekar, learned counsel on record for petitioner



H.C.P.No.481 of 2023

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

WEB COPY

5. As would be evident from the Admission Board order dated 29.03.2023, at the time of admission, learned counsel for HCP petitioner projected the point that some of the pages in the booklet are illegible (not readable). Elaborating on the above submission, learned counsel on record for petitioner drew our attention to Page No.41 of the grounds booklet submitted that the First Information Report (FIR) in ground case is not readable.

6. The aforementioned point turns heavily on records and therefore learned Prosecutor really does not have much of a say.

7. This Court had the benefit of perusing the grounds booklet and this Court is of the view that the aforementioned FIR pertaining to ground case which is at page No.41 is not readable. A scanned reproduction of the same is as follows:



H.C.P.No.481 of 2023

INTEGRATED INVESTIGATION FORM

C 11205888

Year: 2023 FIR No: 10 Date: 10-01-2023

Section: 98A

411(a)
411(b)
411(c)
411(d)
411(e)
411(f)
411(g)
411(h)
411(i)
411(j)
411(k)
411(l)
411(m)
411(n)
411(o)
411(p)
411(q)
411(r)
411(s)
411(t)
411(u)
411(v)
411(w)
411(x)
411(y)
411(z)

1. Name of the Offender: **TUE LOAY**

2. Date of Offense: **01-01-2023**

3. Time of Offense: **Before 4 Mon. in NOW**

4. Location of Offense: **Before 4 Mon. in NOW**

5. Nature of Offense: **Before 4 Mon. in NOW**

6. Name of the Offender: **TUE LOAY**

7. Date of Offense: **01-01-2023**

8. Time of Offense: **Before 4 Mon. in NOW**

9. Location of Offense: **Before 4 Mon. in NOW**

10. Nature of Offense: **Before 4 Mon. in NOW**

11. Name of the Offender: **TUE LOAY**

12. Date of Offense: **01-01-2023**

13. Time of Offense: **Before 4 Mon. in NOW**

14. Location of Offense: **Before 4 Mon. in NOW**

15. Nature of Offense: **Before 4 Mon. in NOW**

16. Name of the Offender: **TUE LOAY**

17. Date of Offense: **01-01-2023**

18. Time of Offense: **Before 4 Mon. in NOW**

19. Location of Offense: **Before 4 Mon. in NOW**

20. Nature of Offense: **Before 4 Mon. in NOW**

21. Name of the Offender: **TUE LOAY**

22. Date of Offense: **01-01-2023**

23. Time of Offense: **Before 4 Mon. in NOW**

24. Location of Offense: **Before 4 Mon. in NOW**

25. Nature of Offense: **Before 4 Mon. in NOW**

26. Name of the Offender: **TUE LOAY**

27. Date of Offense: **01-01-2023**

28. Time of Offense: **Before 4 Mon. in NOW**

29. Location of Offense: **Before 4 Mon. in NOW**

30. Nature of Offense: **Before 4 Mon. in NOW**

31. Name of the Offender: **TUE LOAY**

32. Date of Offense: **01-01-2023**

33. Time of Offense: **Before 4 Mon. in NOW**

34. Location of Offense: **Before 4 Mon. in NOW**

35. Nature of Offense: **Before 4 Mon. in NOW**

36. Name of the Offender: **TUE LOAY**

37. Date of Offense: **01-01-2023**

38. Time of Offense: **Before 4 Mon. in NOW**

39. Location of Offense: **Before 4 Mon. in NOW**

40. Nature of Offense: **Before 4 Mon. in NOW**

41. Name of the Offender: **TUE LOAY**

42. Date of Offense: **01-01-2023**

43. Time of Offense: **Before 4 Mon. in NOW**

44. Location of Offense: **Before 4 Mon. in NOW**

45. Nature of Offense: **Before 4 Mon. in NOW**

46. Name of the Offender: **TUE LOAY**

47. Date of Offense: **01-01-2023**

48. Time of Offense: **Before 4 Mon. in NOW**

49. Location of Offense: **Before 4 Mon. in NOW**

50. Nature of Offense: **Before 4 Mon. in NOW**

51. Name of the Offender: **TUE LOAY**

52. Date of Offense: **01-01-2023**

53. Time of Offense: **Before 4 Mon. in NOW**

54. Location of Offense: **Before 4 Mon. in NOW**

55. Nature of Offense: **Before 4 Mon. in NOW**

56. Name of the Offender: **TUE LOAY**

57. Date of Offense: **01-01-2023**

58. Time of Offense: **Before 4 Mon. in NOW**

59. Location of Offense: **Before 4 Mon. in NOW**

60. Nature of Offense: **Before 4 Mon. in NOW**

61. Name of the Offender: **TUE LOAY**

62. Date of Offense: **01-01-2023**

63. Time of Offense: **Before 4 Mon. in NOW**

64. Location of Offense: **Before 4 Mon. in NOW**

65. Nature of Offense: **Before 4 Mon. in NOW**

66. Name of the Offender: **TUE LOAY**

67. Date of Offense: **01-01-2023**

68. Time of Offense: **Before 4 Mon. in NOW**

69. Location of Offense: **Before 4 Mon. in NOW**

70. Nature of Offense: **Before 4 Mon. in NOW**

71. Name of the Offender: **TUE LOAY**

72. Date of Offense: **01-01-2023**

73. Time of Offense: **Before 4 Mon. in NOW**

74. Location of Offense: **Before 4 Mon. in NOW**

75. Nature of Offense: **Before 4 Mon. in NOW**

76. Name of the Offender: **TUE LOAY**

77. Date of Offense: **01-01-2023**

78. Time of Offense: **Before 4 Mon. in NOW**

79. Location of Offense: **Before 4 Mon. in NOW**

80. Nature of Offense: **Before 4 Mon. in NOW**

81. Name of the Offender: **TUE LOAY**

82. Date of Offense: **01-01-2023**

83. Time of Offense: **Before 4 Mon. in NOW**

84. Location of Offense: **Before 4 Mon. in NOW**

85. Nature of Offense: **Before 4 Mon. in NOW**

86. Name of the Offender: **TUE LOAY**

87. Date of Offense: **01-01-2023**

88. Time of Offense: **Before 4 Mon. in NOW**

89. Location of Offense: **Before 4 Mon. in NOW**

90. Nature of Offense: **Before 4 Mon. in NOW**

91. Name of the Offender: **TUE LOAY**

92. Date of Offense: **01-01-2023**

93. Time of Offense: **Before 4 Mon. in NOW**

94. Location of Offense: **Before 4 Mon. in NOW**

95. Nature of Offense: **Before 4 Mon. in NOW**

96. Name of the Offender: **TUE LOAY**

97. Date of Offense: **01-01-2023**

98. Time of Offense: **Before 4 Mon. in NOW**

99. Location of Offense: **Before 4 Mon. in NOW**

100. Nature of Offense: **Before 4 Mon. in NOW**



H.C.P.No.481 of 2023

WEB COPY

8. This means that right of the detenu to make an effective representation as against the impugned preventive detention order has been impaired. Such a right is sanctus constitutional right ingrained in Article 22(5) of the Constitution of India. This constitutional right of the detenu has been subjected to infraction. This has vitiated the impugned preventive detention order. Therefore, the impugned preventive detention order is liable to be dislodged.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 14.02.2023 bearing reference C.O.C. No.10/2023 made by the second respondent is set aside and the detenu Thiru.Sasikumar, aged 47 years, Son of Thiru.Palanivel, 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.)
31.07.2023

Index : Yes
Neutral Citation : Yes
mmi

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

Page Nos.7/9



H.C.P.No.481 of 2023

WEB COPY

To

1. The Secretary to the Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St. George, Chennai -9.
2. The District Collector and District Magistrate,
Tiruvarur District, Tiruvarur.
3. The Superintendent of Police,
Tiruvarur District.
4. The Superintendent of Prison,
Central Prison, Tiruchirappalli.
5. The Inspector of Police,
Muthupetai Police Station,
Tiruvarur District.
6. The Public Prosecutor
High Court, Madras.



WEB COPY



H.C.P.No.481 of 2023

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

mmi

H.C.P.No.481 of 2023

31.07.2023

Page Nos.9/9