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H.C.P.No.598 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

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

**H.C.P.No.598 of 2023**

Kavitha

.. Petitioner

Vs

- 1.The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St. George, Chennai – 9.
- 2.The Commissioner of Police / Detaining Authority,  
City Police Officer,  
Huzur Road, Coimbatore City,  
Coimbatore – 18.
- 3.The Superintendent of Police,  
Central Prison, Coimbatore,  
Coimbatore District.
- 4.State Rep. By its  
The Inspector of Police,  
C2 Race Course Police Station,  
Coimbatore 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 entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 15.03.2023 on the file of the

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second respondent herein made in proceedings Memo C.No.30/G/IS/2023, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely S.Gowtham @ Ondrai Gowtham, s/o. Saravanan, aged 25 years, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi  
for Mr.S.Selvakumar

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 captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity, convenience and clarity].

2. When the captioned HCP was listed for Admission on 17.04.2023, the following proceedings/order was made:

**'H.C.P.No.598 of 2023**

**M.SUNDAR, J.,**

**and**

**M.NIRMAL KUMAR, J.,**

***(Order of the Court was made by M.SUNDAR, J.,)***

***Captioned Habeas Corpus Petition has been filed in this***



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Court on 10.04.2023 *inter alia* assailing a detention order dated 15.03.2023 bearing reference C.No.30/G/IS/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. Mother of the detenu is the petitioner.

3. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 147, 148, 302, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.82 of 2023 on the file of C-2, Race Course Police Station, Coimbatore City.

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 some of the pages in the grounds 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.



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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.'*

3. The aforementioned proceedings/order dated 17.04.2023 captures all essentials i.e., essential facts imperative for appreciating this final order and therefore we are not setting out the facts again. Suffice to say that the aforementioned Admission Board order dated 17.04.2023 shall now be read as an integral part and parcel of the instant final order. This also means that the short forms, short references and abbreviations used in the aforementioned Admission Board order will continue to be used in the instant final order also.

4. Before we proceed further, we make it clear that 'detention order dated 15.03.2023 bearing reference C.No.30/G/IS/2023 made by the detaining authority' shall hereinafter be referred to as the 'impugned preventive detention order' for the sake of convenience and clarity.



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5. Mr.W.Camyles Gandhi, learned counsel representing the counsel on record for petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for all the respondents are before us.

6. As would be evident from paragraph 5 of the 17.04.2023 Admission Board order, at the time of admission, learned counsel for petitioner posited his challenge against the impugned preventive detention order on the ground that some of the pages in the grounds booklet furnished to the detenu are illegible.

7. Elaborating on the above submission, in the Final Hearing Board today, learned counsel for petitioner submitted that the Seizure Mahazar pertaining to the ground case furnished in the grounds booklet is completely not readable. Learned counsel drew our attention to page No.67 of the grounds booklet and a scanned reproduction of the same is as follows:





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9. We have no hesitation in persuading ourselves to say that detenu's sacrosanct constitutional right to make an effective representation against the impugned preventive detention order has been impaired owing to the aforementioned copy which is not readable at all. This means that there is infraction of constitutional safeguard ingrained in Article 22 (5) of the Constitution of India leading to the inevitable sequitur that impugned preventive detention order deserves to be dislodged.

10. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 15.03.2023 bearing reference C.No30/G/IS/2023 made by the second respondent is set aside and the detenu Thiru.S.Gowtham @ Ondrai Gowtham, aged 25 years, Son of Thiru.Saravanan, 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.)  
19.09.2023

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, Coimbatore.**

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To

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- 3.The Superintendent of Police,  
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- 5.The Public Prosecutor,  
High Court, Madras.



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

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