



WEB COPY



H.C.P.No.605 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.605 of 2023

Rahul Robert
S/o.Murali

.. Petitioner / Detenu

VS

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The District Collector and District Magistrate,
Vellore District, Vellore.

3.The Superintendent of Police,
Vellore District, Vellore.

4. The Superintendent of Prison,
Central Prison,
Vellore.

5. The Inspector of Police
Vellore North Crime Police Station,
Vellore District.

.. Respondents



H.C.P.No.605 of 2023

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 second respondent dated 01.01.2023 in C3/D.O.No.001/2023, petitioner/detenu, Rahul Robert, Male aged 22 years, S/o.Murali, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenue before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji

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 before this Court in the Admission Board on 18.04.2023, this Court made the following order:

'Captioned Habeas Corpus Petition has been filed in this Court on 10.04.2023 inter alia assailing a detention order dated 01.01.2023 bearing reference C3.D.O.No.001/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.



WEB COPY



H.C.P.No.605 of 2023

2. *The detenu is the petitioner herein.*

3. *Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 294(b), 392, 397 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.177 of 2022 on the file of Vellore North Crime Police Station.*

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.*

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 18.04.2023 Admission listing shall be read as an integral part and parcel of this order which means that the



H.C.P.No.605 of 2023

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 four adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.177 of 2022 on the file of Vellore North Crime Police Station for alleged offences under Sections 341, 294(b), 392, 397 and 506(ii) 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 preventive detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.D.Balaji, learned counsel for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. Learned counsel for petitioner both in the Admission Board as well as in the final hearing Board projected the argument that some of the pages in the grounds booklet furnished to the detenu are not legible. Elaborating on the submission, learned counsel submitted that in page 47 of the grounds



H.C.P.No.605 of 2023

booklet, the list of property was not readable, which prevented the detenu from making an effective representation.

6. The aforementioned point turns heavily on records and therefore learned Additional Public 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 page which contains List of Property sent to Magistrate in third adverse case was not readable. Scanned reproduction of page 47 is as follows:



WEB COPY



H.C.P.No.605 of 2023

LIST OF PROPERTY SENT TO MAGISTRATE
சமர்ப்பிக்கப்பட்ட சொத்துக்களின் பட்டியல்

47

F 571918

Sub-Inspector of Police
Kuth - Criminal Investigation

1. பஞ்சு பட்டை நெயர் - காவல் ஆய்வாளர்,
காவலர் உதவியுடன்
பெற்றுக்கொண்டது. வேலூர் வடக்கு காவல் நிலையம்.
2. காவல் நிலையம் பெற்றுக்கொண்டது. வேலூர்.

T. R. Ravi Kumar
17/5/2023

08/11/2021
9/2/2022



H.C.P.No.605 of 2023

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.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 01.01.2023 bearing reference No.C3/D.O.No.001/2023 made by the second respondent is set aside and the detenu Thiru.Rahul Robert, aged 22 years, son of Thiru.Murali, 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

Speaking order

Neutral Citation : Yes

rsi

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



WEB COPY



H.C.P.No.605 of 2023

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

rsi

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate,
Vellore District, Vellore.
- 3.The Superintendent of Police,
Vellore District, Vellore.
4. The Superintendent of Prison,
Central Prison,
Vellore.
5. The Inspector of Police
Vellore North Crime Police Station,
Vellore District.
- 6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.605 of 2023

31.07.2023