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H.C.P.NO.603 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

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

H.C.P.NO.603 OF 2023

Ramesh @ Mattu Ramesh

... Petitioner

Vs.

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

2.District Collector and District Magistrate
Ranipet District, Ranipet.

3.The Superintendent of Police
Ranipet District, Ranipet.

4.The Superintendent of Prison
Central Prison
Vellore.

5.The Inspector of Police
Timiri Police Station
Ranipet District.

... Respondents



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PRAYER: 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 25.03.2023 in B3/D.O.No.006/2023 petitioner / detenu Ramesh @ Mattu Ramesh, Male aged 51 years S/o. Sokkalingam, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this 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' ['HCP' for the sake of brevity] was listed in the Admission Board on 18.04.2023, this Court made the following order:



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M. SUNDAR, J.,
and
M. NIEMAI KUMAR, J.

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

Captained Hanees Corpus Petition has been filed in this Court on 10.9.2023 after also resulting a return order dated 25.03.2023 bearing reference H.C.D.O.No.06/2022 made by 'second respondent' [Bordering Training Authority] for the sake of convenience and clarity). To be noted, Fifth respondent is the Sponsoring Authority.

3.The Court is the petitioner herein.

3.1 Legal council for petitioner submits that ground case on the domain was initially registered for an offence under Sections 321, 294(b), 297 and 506(1) of The Indian Penal Code (13 of 1860) [hereinafter IP] for the sake of convenience and clarity] in Court No.43 of 2023 on the file of Thiruvallur Police Station.

4.The aforementioned collection order has been made on the premise that the petitioner is a 'Gooner' (under Section 2(c) of The Tamil Nadu Prevention of Dangerous Activities of Rioters, Cyber Law offenders, Drug offenders, Forest-offenders, Goondas, Immoral Traffic



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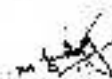
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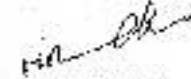
officers, Sand-officers, Sexual-officers, Sheng officers and others
Fines Act, 1982 and Nadu Act No 14 of 1982" [hereinafter "Act 14 of
1982" for the sake of convenience and clarity].

3. The detention order has been issued only after on the ground
that the remand order was not properly translated which prevented the
detainee from seeking an effective representation.

4. Prison rules made out for submission. Admit. Issue Rule
not receivable by four weeks.

5. Mr. M. Maniappan, learned Additional Public Prosecutor, State
of Tamil Nadu accepts notice for all respondents. List the captioned
Habeas Corpus Petition accordingly.


[M.S.J.]
18.04.2023


[M.N.K.J.]



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2.The aforementioned Admission Board order captures all essential facts and therefore, we are not setting out the same again. Be that as it may, we are using the short forms, short references and abbreviations used in the Admission Board order in this order also for the sake of convenience and clarity.

3.As would be evident from paragraph 5 of the Admission Board order, at the time of admission, learned counsel posited his challenge to the impugned preventive detention order on the ground that the remand order has not been properly translated but in the final hearing Board today, learned counsel placed before us the grounds booklet served on the detenu and drew our attention to page no.98 thereat which is a Mahazar i.e., Mahazar in the ground case.

4.Adverting to the same, learned counsel submits that the same is not readable at all.



5.We perused the aforementioned page in the grounds booklet and we find no reason to disagree with the learned counsel for petitioner.

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

7.This Court finds that the Mahazar in the ground case is a very critical document and the same being furnished in a manner which is not readable has certainly impaired the rights of the detenu to make an effective representation against the impugned preventive detention order. Such a right is a very sacrosanct right ingrained in Article 22 (5) of Constitution of India. Impairment of this right vitiates a preventive detention order leaving it liable for being dislodged in a Habeas legal drill. Following this principle, we have no hesitation in saying that the case on hand is one where the impugned preventive detention order deserves to be dislodged.

8.Apropos, the sequitur is captioned HCP is allowed. Impugned detention order dated 25.03.2023 bearing reference B3/D.O.No.06/2023



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made by the second respondent is set aside and the detenu Thiru. Ramesh @

Mattu Ramesh, aged 51 years, son of Thiru. Sokkalingam 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.)

14.08.2023

Index : Yes

Neutral Citation : Yes

Speaking order

TK

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

To

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

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R.SAKTHIVEL, J.

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