



H.C.P.No.653 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.653 of 2023

Karuppathal

.. Petitioner

Vs

- 1.The State rep. By its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.
2. The District Magistrate and District Collector,
Tiruppur District, Tiruppur.
- 3.The Superintendent of Prison,
Coimbatore Central Prison, Coimbatore.
- 4.The Superintendent of Police,
Tiruppur District.
- 5.The Inspector of Police,
Vellakkovil Police Station,
Tiruppur, Tiruppur 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
leading to the detention of the petitioner's son namely Madhan @
Selvakumar, son of Nataraj, aged about 35 years under Act 14/1982

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vide detention order dated 21.01.2023 on the file of the second respondent made in proceedings in Cr.M.P.No.08/Goonda/2023, quash the same, consequently direct the respondents herein to produce the body and person of Madhan @ Selvakumar, son of Nataraj, aged about 35 years, who is lodged at Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.S.Sathrack
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 21.04.2023, the following order was made:

M.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

HCP No.653 of 2023

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

Captioned Habeas Corpus Petition has been filed in this Court on 13.04.2023 inter alia assailing a detention order dated 21.01.2023 bearing reference Cr.M.P.No.08/GOONDA/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.



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2. Mother of detenu is the petitioner.

3. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341 and 387 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] in Crime No.491 of 2022 on the file of Vellakovil 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 live and proximate link between the grounds of detention and purpose of detention has snapped as there is delay of 44 days in passing the impugned detention order.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

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

2. The aforementioned Admission Board captures all essentials

that are imperative for appreciating this order and therefore, we are not setting out the same again. However, short forms, short references and abbreviations used in the Admission Board order will continue to be used in the instant order also for the sake of brevity, convenience and clarity.

3. Mr.S.Sathrack, learned counsel on record for petitioner and



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

4. To be noted, 'order dated 21.01.2023 bearing reference Cr.M.P.No.08/Goonda/2023' made by second respondent / Detaining Authority shall in this order be referred to as 'impugned preventive detention order' for the sake of convenience and clarity.

5. As would be evident from paragraph 5 of the Admission Board order, at the time of admission, learned counsel for petitioner predicated his challenge to the impugned preventive detention order on the point that live and proximate link between the grounds of detention and purpose of detention has snapped, however in the final hearing today, learned counsel adverting to list of cases allegedly pending against the detenu submitted that Tamil translation of the same has not been furnished to the detenu.

6. Learned counsel for petitioner drew our attention to page Nos.144 to 147, which contain the list of cases allegedly pending against the detenu in English, Tamil translation of which has not been



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furnished to the detenu.

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7. We carefully considered the rival submissions. We find from the confession statement of the detenu at page No.125 of the grounds booklet that the literacy level of detenu is 5th Standard in school and the relevant portion reads as under:

'...நான் காங்கயம் பாளையம் அரசு பள்ளியில் 5
ஆம் வகுப்பு வரை படித்துள்ளேன்....'

8. We had the benefit of perusing the grounds booklet. We also noticed that the cases allegedly pending against the detenu form part of the grounds on which the impugned preventive detention order has been made or in other words those cases have been relied on by the Detaining Authority in making the impugned preventive detention order. As this turns on obtaining scenario which comes to light from the grounds booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

9. Be that as it may, we are also informed that the detenu is conversant only with Tamil. We remind ourselves of **Powanammal** case i.e., **Powanammal Vs. State of Tamil Nadu**, wherein Hon'ble
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Supreme Court addressed to itself this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed to itself is captured in paragraph 6 and the manner in which Hon'ble Supreme Court answered this question have been captured in paragraphs 6 and 16. To be noted, **Powanammal** case is reported in **(1999) 2 SCC 413** and paragraphs 6 and 16 {as in SCC journal} read as follows:

'6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

10. In the case on hand, we find that list of cases allegedly pending against the detenu which has been relied on as part of the grounds of detention qua impugned preventive detention order is a crucial document and not furnishing translation of the same in Tamil, the lone language known to the detenu, has impaired his constitutional right ingrained in Article 22(5) to make an effective representation qua the impugned preventive detention order. We therefore have no



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hesitation in saying that the impugned preventive detention order deserves to be dislodged.

11. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 21.01.2023 bearing reference Cr.M.P.No.08/Goonda/2023 made by the second respondent is set aside and the detenu Thiru.Madhan @ Selvakumar, aged 35 years, Son of Thiru.Nataraj, 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
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Coimbatore.



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To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.
2. The District Magistrate and District Collector,
Tiruppur District, Tiruppur.
- 3.The Superintendent of Prison,
Coimbatore Central Prison, Coimbatore.
- 4.The Superintendent of Police,
Tiruppur District.
- 5.The Inspector of Police,
Vellakkovil Police Station,
Tiruppur, Tiruppur District.
- 6.The Public Prosecutor,
High Court, Madras.



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

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