



H.C.P.No.717 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

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

H.C.P.No.717 of 2023

A.Ranjitham

.. Petitioner

Vs

1. The State Rep. By the Secretary
Home, Prohibition and Excise Department,
Government of Tamil Nadu
Secretariat, Fort St.George
Chennai – 600 009
2. The District Collector and District Magistrate
Villupuram District
Villupuram
3. The Superintendent of Police
Collector office road
Villupuram
4. The Inspector of Police
Kottakuppam Police Station
Villupuram District



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5. The Superintendent
Special Prison-Women
Vellore Central Prison
Vellore

.. 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 pursuant to the order in Rc.No.C2/23633/2023, dated 29.03.2023 passed by the second respondent and quash the same and consequently produce the detenu Geja, wife of Boopalan, aged about 47 years before this Court and set her at liberty.

For Petitioner : Ms.S.Sadhana

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by sister of the detenu assailing a 'preventive detention order dated 29.03.2023 bearing reference Rc.No.C2/23633/2023' [hereinafter 'impugned preventive detention order' for the sake of convenience and brevity] made by second respondent (hereinafter 'detaining authority' for the sake of convenience). To be noted, fourth respondent is the sponsoring authority.

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2. Impugned preventive detention order has been made under '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] on the premise that the detainee is a 'Bootlegger' within the meaning of Section 2(b) of Act 14 of 1982.

3. There is no adverse case. The solitary case which is the sole substratum of the impugned preventive detention order is Crime No.172 of 2023 on the file of Kottakuppam Prohibition Enforcement Wing for alleged offences under Sections 4(1)(aaa) and 4(1-A) of 'Tamilnadu Prohibition Act, 1937' [hereinafter 'TNP Act' for the sake of brevity]. 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.



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4. Ms.S.Sadhana, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. Though very many grounds have been raised in the support affidavit, Ms.S.Sadhana, learned counsel on record for petitioner in the final hearing today, predicated her campaign against the impugned preventive order on the point that subjective satisfaction arrived at by the detaining authority qua imminent possibility of detenue being enlarged on bail is impaired. Elaborating on this point, learned counsel drew the attention of this Court to a portion of paragraph 5 of the grounds of impugned preventive detention order which reads as follows:

'5. ...But, the Sponsoring Authority received reliable information that her relatives are taking steps to file bail application..'

6. Adverting to the aforementioned portion of paragraph 5 of the grounds of impugned preventive detention order, learned counsel submitted that there is no statement from any relative of the detenue and there is no



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special report from the sponsoring authority. To be noted, sister of the detainee is the HCP petitioner before us. In this view of the matter, learned counsel submitted that subjective satisfaction arrived at by detaining authority qua imminent possibility of detainee being enlarged on bail is impaired as it is not supported by any material. In other words, subjective satisfaction is in the abstract and therefore it is impaired is learned counsel's say.

7. In response to this argument, learned Prosecutor submitted that the sponsoring authority has intimated the detaining authority that family members of the detainee are taking steps to take her out on bail.

8. We carefully considered the submissions made on both sides and we find that if we were to consider the submission of learned Prosecutor, there should atleast be a special report from the sponsoring authority, however, even if there was a special report from the sponsoring authority, absent statement from the relative of the detainee, it may get branded as a self-serving document but we are not going into that question in this case and we are leaving this question open as there is no special report from the sponsoring authority.



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9. The aforementioned discussion leads us to the conclusion that the impugned preventive detention order requires interference owing to subjective satisfaction qua imminent possibility of detainee being enlarged on bail being impaired. As the impugned preventive detention order is vitiated, the same requires to be dislodged in this habeas legal drill.

10. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 29.03.2023 bearing reference Rc.No.C2/23633/2023 made by the second respondent is set aside and the detainee Tmt.Geja, aged 47 years, wife of Thiru.Boopalan, 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.)

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Index : Yes

Neutral Citation : Yes

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

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To

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Government of Tamil Nadu
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Chennai – 600 009
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6. The Public Prosecutor
High Court, Madras.



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

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