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CRL.M.P.No.6565 of 2023
IN HCP No.528 of 2023

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in

HCP No.528 of 2023

M.SUNDAR, J.

AND

R.SAKTHIVEL, J.

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

Captioned 'Criminal Miscellaneous Petition' ['Crl.MP' for the sake of brevity and convenience] has been filed with a prayer to fix an early date to hear out H.C.P.No.528 of 2023, which is directed against a 'preventive detention order dated 23.01.2023 bearing Reference No.02/BCDFGISSSV/2023 made by the second respondent' [hereinafter 'impugned preventive detention order' for the sake of convenience and clarity]. The second respondent shall hereinafter be referred to as 'Detaining Authority' for the sake of convenience and clarity.

2.Before we proceed further, we deem it appropriate to record that paragraph 4 of the support affidavit reads as follows:

'4.The Petition is already filed now. In the filing of the Petition the earlier lawyers were told to do certain things which they did not do. I now realize that lot of things could be said about the conduct of the Lawyers, especially of Mr.Mathew and Mr.David about the manner in which



CRL.M.P.No.6565 of 2023
IN HCP No.528 of 2023

WEB COPY

the Petition was filed and conducted. But I shall deal with the same in appropriate proceedings.'

3.Learned counsel on record Mr.Dinesh D.Tiwari has made an endorsement saying that the point in paragraph 4 is being given up and an endorsement to this effect has been made and a scanned reproduction of the same is as follows:

I am giving up
Point No 4
[Signature]
[Signature]

4.Issue notice. Mr.E.Raj Thilak, learned Additional Public Prosecutor accepts notice for all the 4 respondents.

5.We wanted to know from the learned Additional Public Prosecutor about the stage of the case in the trial Court. Learned Additional Public Prosecutor, on instructions, submitted that final report i.e., charge sheet is yet to be filed and 60 days have elapsed, which means that the petitioner before us would be entitled to default bail.



CRL.M.P.No.6565 of 2023
IN HCP No.528 of 2023

6.We are informed that the petitioner has moved default bail under Section 167(2) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.P.C' for the sake of brevity and clarity] and the same has been granted on 05.04.2023 by the Jurisdictional Court vide Case No.CRLMP/0002657/2023.

7.In the light of the aforesaid backdrop, we are inclined to accede to the prayer to fix an early date and the reasons are as follows:

(i)Three paragraphs in the support affidavit i.e., paragraphs III, V and VIII, which read as follows:

'III.It is required to be noted that apart from the merits of that case, it can easily be seen that I was a mature, well settled doctor who is an orthopaedic surgeon, I am not into any cheating as is alleged by the police and the detention department.

V.If I continue to remain in custody then there is every possibility of shutting down the hospital itself which would render the life of so many people unpredictable because of the unemployment in the current blooming market scenario.

VIII.Also, my orientation towards the society can be seen from the services rendered by me during the corona



WEB COPY



CRL.M.P.No.6565 of 2023
IN HCP No.528 of 2023

period in which I have received a number of acolytes from various organization, which praise the work done by me during corona period. The acolytes received by me during corona period are attached Herewith as EXHIBIT H.'

(ii) Learned counsel for petitioner submits that the petitioner is conversant with English and Marathi only but the grounds booklet, which contains multiple documents in Tamil which have been relied on by the Detaining Authority in the impugned preventive detention order have not been translated and provided either in Marathi or in English;

(iii) To be noted, aforementioned ground is one of the points on which the petitioner's campaign against the impugned preventive detention order is predicated and the other points will be taken up and heard out when the main HCP is listed. Though obvious, for the sake of specificity, we make it clear that we have not expressed any view or opinion on this point in this order but the same will be considered when the main HCP is heard out;

(iv) Default bail has already been granted as alluded to



CRL.M.P.No.6565 of 2023
IN HCP No.528 of 2023

supra;

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(v) As a corollary to the previous point, the impugned preventive detention order is predicated on a solitary case (no adverse case) and default bail has already been granted in the solitary case;

8. We are inclined to take up the main HCP day-after-tomorrow. However, learned counsel for the petitioner before us requested for listing on Friday citing personal difficulty for him. Request acceded to.

9. Captioned Crl.MP is ordered on the above terms.

List captioned HCP for final disposal on 16.06.2023.

(M.S., J.) (R.S.V., J.)
13.06.2023

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CRL.M.P.No.6565 of 2023
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M.SUNDAR, J.
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CRL.M.P.No.6565 of 2023
in
HCP No.528 of 2023

13.06.2023