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H.C.P.No.865 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.865 of 2023

Sasi @ Sasikumar
S/o.Munisamy

.. 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,
Ranipet District,
Ranipet-1.

3.The Superintendent of Police,
Ranipet District,
Ranipet-1.

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

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

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ order or direction in the nature of WRIT OF HABEAS CORPUS, call for the records in connection with the order of detention passed by the 2nd respondent dated 25.03.2023 in B3/D.O.No.07/2023 against the petitioner/detenu, Sasi @ Sasikumar, Male aged about 46 years, Son of Munisamy, 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.,]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by detenu assailing a 'preventive detention order dated 25.03.2023 bearing reference No.B3/D.O.No.07/2023' [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, fifth 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 detenu is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are seven adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.48 of 2023 on the file of Thimiri Police Station for alleged offences under Sections 341, 294(b), 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.



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

5. Adverting to the grounds booklet supplied to the detenu, learned counsel drew our attention to page no.114 thereat which is a Mahazar and submits that the same is not readable at all.

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

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

8. This Court finds that the Mahazar 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



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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.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 25.03.2023 bearing reference B3/D.O.No.07/2023 made by the second respondent is set aside and the detenu Thiru.Sasi @ Sasikumar, aged 46 years, Son of Thiru.Munisamy, 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.)

11.09.2023

Index : Yes

Neutral Citation : Yes

Speaking order

rsi

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



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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,
Ranipet District,
Ranipet-1.
- 3.The Superintendent of Police,
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- 5.The Inspector of Police,
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Ranipet District.
- 6.The Public Prosecutor
High Court, Madras.

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