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H.C.P.No.890 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.890 of 2023

M.Salma

.. Petitioner

Vs

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.

2.The Commissioner of Police,
Vepery, Chennai – 07.

3.The Superintendent,
Central Prison I, Puzhal, Chennai – 66.

4.The Inspector of Police,
CCB – 1, Team 24, ALGSC II, PS,
Chennai.

.. 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 in No.66/BCDFGISSSV/2023 dated 17.03.2023 on the file of the 2nd respondent herein and quash the same as illegal and direct the 2nd respondent to produce the detenu Mynudeen @ Ramamoorthy, aged 51 years, now confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

Page Nos.1/7



WEB COPY



H.C.P.No.890 of 2023

For Petitioner : Mr.D.Jagadeesan
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 the wife of the detenu assailing a 'preventive detention order dated 17.03.2023 bearing reference No.66/BCDFGISSSV/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.

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]



H.C.P.No.890 of 2023

on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There is one adverse case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.07 of 2023 on the file of Central Crime Branch – I for alleged offences under Sections 419, 465, 467, 468, 471 r/w 120(b) and 109 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.

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

5. Learned counsel for petitioner submitted that some of the pages in the grounds booklet are completely not readable. As an illustration, learned counsel drew our attention to page No.541 and a



H.C.P.No.890 of 2023

scanned reproduction of the same is as follows:

54
 T-4-51782-6-9-72-G.B.P. FORM
 THUMB IMPRESSION REGISTER RELATING TO OFFICE ATTENDANCE

Signature and name of the person of the register, with date and initials of the registering officer.	Number, book and year of document.	Number, book and year of document.	Signature and impression of the left thumb of the person of the register with date and initials of the registering officer.
<i>[Signature]</i> 25/10/72	250	251	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	252	253	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	254	255	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	256	257	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	258	259	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	260	261	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	262	263	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	264	265	<i>[Signature]</i> 25/10/72
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<i>[Signature]</i> 25/10/72	268	269	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	270	271	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	272	273	<i>[Signature]</i> 25/10/72
<i>[Signature]</i> 25/10/72	274	275	<i>[Signature]</i> 25/10/72
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<i>[Signature]</i> 25/10/72	362	363	<i>[Signature]</i>



H.C.P.No.890 of 2023

WEB COPY

6. To be noted, learned counsel pointed out that page No.541 is supposed to be the extract of Thumb Impression Register Relating To Office Attendance (Joint-II Sub Registrar Office, Saidapet, Chennai) which is the sole substratum of the impugned preventive detention order.

7. The above mentioned point turns heavily on records and therefore learned Prosecutor really does not have much of a say.

8. We have no hesitation in persuading ourselves to say that detenu's sacrosanct constitutional right to make an effective representation against the impugned preventive detention order has been impaired owing to the aforementioned copies which are not readable at all. This means that there is infraction of constitutional safeguard ingrained in Article 22 (5) of the Constitution of India leading to the inevitable sequitur that impugned preventive detention order deserves to be dislodged.



H.C.P.No.890 of 2023

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 17.03.2023 bearing reference No.66/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Mynudeen @ Ramamoorthy, aged 51 years, Son of Thiru.Syed Babu, 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/No
Neutral Citation : Yes/No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai – 600 066.

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
- 2.The Commissioner of Police,
Vepery, Chennai – 07.
- 3.The Superintendent,
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- 4.The Inspector of Police,
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- 5.The Public Prosecutor,
High Court, Madras.

Page Nos.6/7



WEB COPY



H.C.P.No.890 of 2023

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

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H.C.P.No.890 of 2023

14.08.2023

Page Nos.7/7