



H.C.P.No.883 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.883 of 2023

K.Hemalatha

.. Petitioner

Vs

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

2.The Commissioner of Police / Detaining Authority,
Avadi City, Avadi.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police,
Prohibition Enforcement Wing, Ambattur,
Tiruvallur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records connected with the detention order of the 2nd respondent in Memo No.112/BCDFGISSSV/2023 dated 29.04.2023 and quash the same and direct the respondents to produce the body and person of the petitioner's husband namely, Karthick, son of Narayanamoorthy, aged about 24 years, detained in Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner	:	Mr.B.S.Manikandan
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor



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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 wife of detenu assailing a 'preventive detention order dated 29.04.2023 bearing reference No.112/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] on the premise that the detenu is a 'Drug Offender' within the meaning of Section 2(e) of Act 14 of 1982.

3. There is no adverse case. The ground case which is the sole

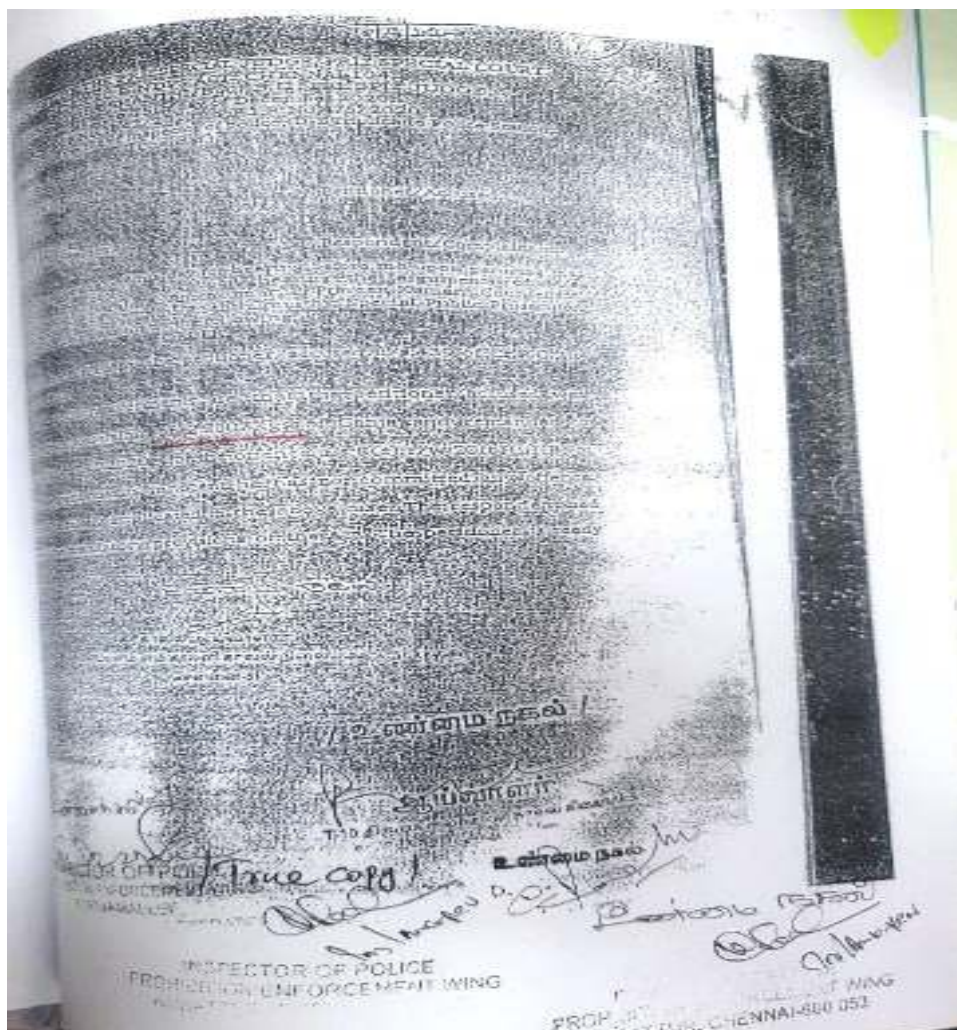


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substratum of the impugned preventive detention order is Crime No.170 of 2023 on the file of Prohibition Enforcement Wing, Ambattur Unit for alleged offence under Section 8(c) r/w 20(b)(ii)(C) of 'Narcotic Drugs and Psychotropic Substances Act, 1985' [hereinafter 'NDPS Act' 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.B.S.Manikandan, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. Today, in the final hearing, Mr.B.S.Manikandan, learned counsel for petitioner submitted that the similar case bail order which has been relied on in the grounds of impugned preventive detention order is completely not readable in the grounds booklet served on the detenu. A scanned reproduction of the same is as follows:



6. Learned Prosecutor in response to the above argument submitted that it is an inadvertent technical error.

7. We considered the submissions on both sides. We find that similar case bail order is a very important document and not furnishing



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the same to the detenu has impaired his right to make an effective representation against the impugned preventive detention order and such a right is a constitutional safeguard ingrained in Article 22(5) of the Constitution of India. We have repeatedly held that violation of such constitutional safeguard vitiates a preventive detention order and leaves it liable for being dislodged in a habeas drill. We have no hesitation in saying that this is one such case.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 29.04.2023 bearing reference No.112/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Karthick, aged 26 years, Son of Thiru.Narayanamoorthy, 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.)
08.09.2023

Index : Yes/No
Neutral Citation : Yes/No
mmi

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

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
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Avadi City, Avadi.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Inspector of Police,
Prohibition Enforcement Wing, Ambattur,
Tiruvallur District.
- 5.The Public Prosecutor,
High Court, Madras.



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

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