



H.C.P.No.885 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.No.885 of 2023

Sathya
W/o.Kugan

.. Petitioner

Vs

1. The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009.
2. The Commissioner of Police
Greater Chennai.
3. The Superintendent of Prison
Central Prison, Puzhal
Chennai-66.
4. The Inspector of Police
F-1 Chindatripet Police Station
Chennai.

.. Respondents



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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 connection with the order of detention passed by the second respondent dated 12.01.2023 in Memo.No.22/BCDFGISSSV/2023 against the petitioner's Nephew Sarathkumar @ Chinna Kosu, M/23 years, S/o. Murugan (late), who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenue before the Honble Court and set him at liberty.

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

ORDER

[Order of the Court was made by **R.SAKTHIVEL, J.,**]

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] has been filed by aunt of the detenu assailing a 'preventive detention order dated 12.01.2023 bearing reference No.BCDFGISSSV No.22/2023' [hereinafter 'impugned preventive detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the



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Detaining Authority as the impugned preventive detention order has been made by second respondent.

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 three adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.310 of 2022 on the file of F-1 Chindatripet Police Station for alleged offences under Sections 341, 336, 427, 387 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



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delve into the factual matrix or be detained further by facts.

4. Mr.S.Senthilvel, 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 the 2nd respondent furnished grounds booklet to the detenu in which a copy of complaint submitted to the Inspector of Police, Chintadripet is annexed at Page Nos.74 and 75 which are not legible and readable. It shows that the 2nd respondent without verifying the records has passed the impugned preventive detention order against the detenu. Non-furnishing of legible copy of the document referred in the grounds booklet would affect the detenu's right to make an effective representation. Accordingly, the learned counsel has prayed to allow the petition.

6. Per contra, learned Prosecutor submitted that the complaint at Page Nos.74 and 75 in the grounds booklet is readable.

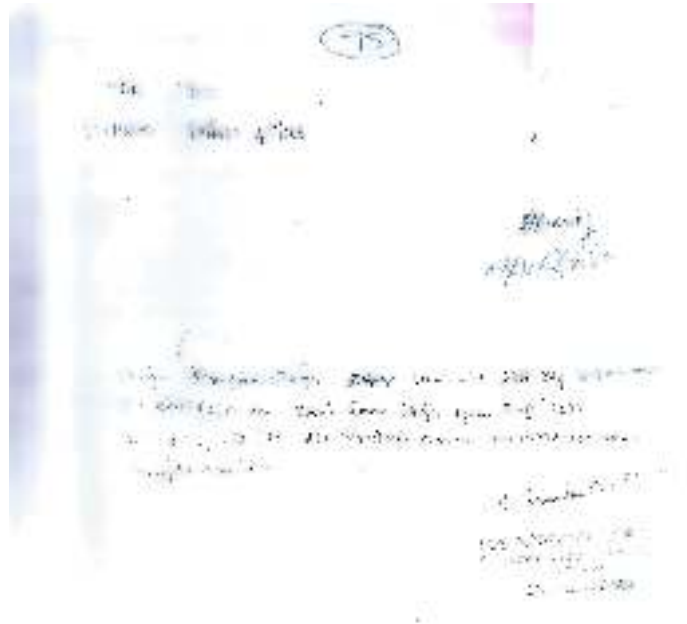
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8. We have the benefit of perusing the grounds booklet. We are of the view that the complaint at Page Nos.74 and 75 is not legible and readable which affects the detenu's right to make an effective representation against the impugned preventive detention order. To be noted, right to make an effective representation is a constitutional safeguard available to the detenu under Article 22(5) of the Constitution of India. In view of the above, we are inclined to set aside the impugned preventive detention order.

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9. Resultantly, the captioned HCP is allowed. Impugned detention order dated 12.01.2023 bearing reference No.BCDFGISSSV No.22/2023 made by the second respondent is set aside and the detenu Thiru.Sarathkumar @ Chinna Kosu, male, aged 23 years, son of Thiru.Murugan 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.)

07.08.2023

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes/No

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



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

mk

To

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2. The Commissioner of Police
Greater Chennai.
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5. The Public Prosecutor
Madras High Court, Chennai

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