



H.C.P.No.974 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

Coram

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P.No.974 of 2023

Sangeetha
W/o.Ayyappan

.. Petitioner /wife of detenu

VS

1.The State of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home, Department of Prohibition and Excise,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai – 600 007.

3. The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai.

4.The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.

.. Respondents



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WEB COPY 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 BCDFGISSSV No.180/2023 dated 18.05.2023, on the file of second respondent herein and set aside the same as illegal and produce the detenu Iyyappan, S/o.Mani, aged 33 years, now confined at Central Prison-II, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

When the captioned 'Habeas Corpus Petition' (hereinafter 'HCP' for the sake of convenience and clarity) was listed in the Admission Board on 09.06.2023, the following order was made:

'H.C.P.No.974 of 2023

M.SUNDAR, J.,

and

K.GOVINDARAJAN THILAKAVADI, J.,

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

Captioned Habeas Corpus Petition has been filed in this Court on 02.06.2023 inter alia assailing a detention order dated



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18.05.2023 bearing reference BCDFGISSSV No.180/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, third respondent is the Sponsoring Authority.

2. To be noted, wife of the detenu is the petitioner.

3. Mr.Ilayaraja Kandasamy, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 341, 294(b), 324, 392, 397 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] in Crime No.94 of 2023 on the file of R-2 Kodambakkam Police Station.

4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of '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].

5. The detention order has been assailed inter alia on the ground that some of the pages in the grounds booklet furnished to the detenu are illegible which prevented the detenu from making an effective representation.

6. Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four weeks.



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7. *Mr.R.Muniyapparaj, learned Additional Public Prosecutor, State of Tamil Nadu accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'*

2. The aforementioned 09.06.2023 Admission Board order captures all essentials, i.e., all facts that are imperative for appreciating the final order and therefore, we are not setting out the facts again in this final order. Suffice to say that aforementioned Admission Board order shall be read as an integral part and parcel of this final order. Be that as it may, we are using the short forms, short references and abbreviations used in the Admission Board order in this order also for the sake of convenience and clarity.

3. To be noted, 'detention order dated 18.05.2023 bearing reference BCDFGISSSV No.180/2023 made by the Detaining Authority' shall hereinafter be referred to as 'impugned preventive detention order' in this order for the sake of brevity, convenience and clarity.

4. There are two adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive



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detention order is Crime No.94 of 2023 on the file of R-2 Kodambakkam Police Station for alleged offences under Sections 341, 294(b), 324, 392, 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 detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

5. Mr.Ilayaraja Kandasamy, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

6. At the time of admission board, the point that some of the pages in the grounds booklet furnished to the detenu are illegible was projected but in the final hearing, learned counsel for petitioner projected his argument qua challenge to the impugned detention order on one point and that one point turns on incorrect/improper translation. Elaborating on the submission, learned counsel drew our attention to page Nos.159 and 161 of the grounds booklet which are (i) Remand Order dated 08.05.2023 in English and (ii) Remand Order dated 08.05.2023 in Tamil, respectively. No proper translation



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of this document has been furnished to the detenu.

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7. We had the benefit of perusing the booklet. We also noticed that Remand order forms part of the ground on which the impugned detention order has been made. A portion of English version of the Remand order reads as '*... Remanded till 22.05.2023*' but the Tamil translation reads as '*25.05.2023 வரை அடைப்புக் காவலிடப்படுகிறது*'. As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

8. Be that as it may, we are informed that the literacy level of the detenu is 8th standard and he is a school drop out. We are also informed that the detenu is conversant only with Tamil.

9. We remind ourselves of Powanammal case i.e., ***Powanammal Vs. State of Tamil Nadu***, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is



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captured in paragraph 16. To be noted, ***Powanammal*** case is reported in (1999) 2 SCC 413 and paragraphs 6 and 16 {as in SCC journal} read as follows:

'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

10. Besides improper translation (to be noted, the literacy level of detenu is 8th standard in school and he is a school drop out), the complete difference in dates would also baffle anybody, i.e., complete difference in the English Remand order and the Tamil Remand Order, resulting his impairment of constitutional right to make effective representation against the impugned preventive detention order. We therefore have no hesitation in saying that the impugned preventive detention order deserves to be dislodged.



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11. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 18.05.2023 bearing reference BCDFGISSSV No.180/2023 made by the second respondent is set aside and the detenu Thiru.Iyyappan, aged 33 years, son of Thiru.Mani 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.)
29.09.2023

Index : Yes
Speaking order
Neutral Citation : Yes
rsi

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, Department of Prohibition and Excise,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The Commissioner of Police,
Chennai City Police, Greater Chennai,
Commissioner Office, Vepery,
Chennai – 600 007.
3. The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai.
- 4.The Superintendent of Prison,
Central Prison-II,
Puzhal, Chennai.
- 5.The Public Prosecutor,
High Court, Madras.



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

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