



H.C.P.No.970 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

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

H.C.P.No.970 of 2023

Padmavathi

.. Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 9.

2.The Commissioner of Police / Detaining Authority,
Tiruppur City, Tiruppur District.

3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.

4.State Rep. By its
The Inspector of Police,
Nallur Police Station,
Tiruppur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 07.03.2023 on the file of the second respondent herein and made in proceedings Memo C.No.07/G/IS/Tiruppur City/2023, quash the same as illegal and

Page Nos.1/9



H.C.P.No.970 of 2023

consequently direct the respondents herein to produce the petitioner's son namely Ravikumar @ Ravi, S/o.Marimuthu, aged 23 years, before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.S.Senthivel
for Mr.W.Camyles Gandhi

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.970 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 05.06.2023 inter alia assailing a detention order dated 07.03.2023 bearing reference C.No.07/G/IS/Tiruppur City/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fourth respondent is the Sponsoring Authority.

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

3. Mr.J.Jayan, learned counsel representing the counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for



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H.C.P.No.970 of 2023

alleged offences under Sections 147, 294(b), 324, 307 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] in Crime No.43 of 2023 on the file of Tiruppur City, Nallur 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 live and proximate link between the grounds of detention and purpose of detention has snapped as the detenu was remanded on 05.02.2023 but the impugned preventive detention order has been passed on 07.03.2023.

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

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 Admission Board order captures all essentials that are imperative for appreciating this order and therefore, we are not setting out the same again. 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 final order also for the sake of convenience and clarity. To be noted, 'detention order dated 07.03.2023 bearing reference C.No.07/G/IS/Tiruppur City/2023' made by the 'detaining



H.C.P.No.970 of 2023

authority' shall hereinafter be referred to as 'impugned preventive detention order' in this final order for the sake of brevity, convenience and clarity.

3. Mr.S.Senthilvel, learned counsel representing the counsel on record for petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for all the respondents are before us.

4. As would be evident from paragraph 5 of the Admission Board order, at the time of admission, learned counsel for petitioner predicated his challenge to the impugned preventive detention order on the point that live and proximate link between the grounds of detention and purpose of detention has snapped, but, in the Final Hearing Board, learned counsel changed his line of attack and submitted that translated copies of the documents relied on by the detaining authority in a language which the detenu is conversant with, have not been furnished to the detenu.

5. Elaborating on the above submission, learned counsel for



H.C.P.No.970 of 2023

petitioner drew our attention to page Nos.179 and 180 of the grounds booklet which contain the remand order in the ground case and Tamil translation of the said document has not been furnished to the detenu.

6. We had the benefit of perusing the booklet. We also noticed that remand order in the ground case forms part of the grounds on which the impugned preventive detention order has been made. 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.

7. Be that as it may, we are informed that the literacy level of the detenu is XII Standard (discontinued) and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind ourselves of **Powanammal** case i.e., **Powanammal Vs. State of Tamil Nadu**, wherein Hon'ble Supreme Court addressed to itself this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed to itself is captured in paragraph 6 and the manner in which Hon'ble Supreme Court answered this question have been captured in paragraphs 6 and 16. To



H.C.P.No.970 of 2023

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. '

8. We find that the aforementioned **Powanammal** case applies in all fours to the case on hand as we find that remand order in the ground case which has been relied on as part of the grounds of detention qua impugned preventive detention order is a crucial document and not furnishing the same in Tamil the lone language known to the detenu has impaired his constitutional right to make an effective representation qua impugned preventive detention order. We therefore have no hesitation in saying that the impugned preventive detention order deserves to be dislodged.

9. Before concluding, we also remind ourselves that preventive



H.C.P.No.970 of 2023

detention is not a punishment and HCP is a high prerogative writ.

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10. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 07.03.2023 bearing reference C.No.07/G/IS/Tiruppur City/2023 made by the second respondent is set aside and the detenu Thiru.Ravikumar alias Ravi, aged 23 years, Son of Thiru.Marimuthu, 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.)
12.09.2023

Index : Yes
Neutral Citation : Yes
mmi

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

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George, Chennai – 9.
- 2.The Commissioner of Police / Detaining Authority,
Tiruppur City, Tiruppur District.
- 3.The Superintendent of Prison,
Central Prison – Coimbatore,
Coimbatore District.

Page Nos.7/9



H.C.P.No.970 of 2023

WEB COPY

4.The Inspector of Police,
Nallur Police Station,
Tiruppur District.

5.The Public Prosecutor,
High Court, Madras.



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H.C.P.No.970 of 2023

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

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H.C.P.No.970 of 2023

12.09.2023

Page Nos.9/9