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HCP No.1317 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1317 of 2022

M.Saraswathi

..

Petitioner
Wife of Detenue

Vs.

1. The State of Tamil Nadu
Rep. By its Secretary to Government
Home, Prohibition and Excise Department
Fort St. George, Chennai – 600 009
2. The Commissioner of Police
Greater Chennai
The Commissioner of Police
Vepery, Chennai-600 007.
3. The Inspector of Police
S-7 Madipakkam Police Station
Chennai
4. The Superintendent of Central Prison
Central Prison II, Puzhal
Chennai - 66

..

Respondents

Page Nos.1/17



HCP No.1317 of 2022

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records relating to the detention order in BCDFGISSS No.143/2022 dated 03.06.2022 passed by the second respondent and set aside the same and direct the respondent No.4 to produce the petitioner's husband Manikandan @ Live Mani, son of Muthukumar, aged 32 years, now confined at Central Prison, Puzhal at Chennai before this Court.

For Petitioner : Mr.K.Karthik
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP'] has been filed in this Court on 06.07.2022 assailing a 'detention order dated 03.06.2022 bearing reference No.143/BCDFGISSSV/2022' made by the second respondent.

2. The 'detention order' shall be referred to as 'impugned detention order' and 'second respondent' shall be referred to as 'Detaining Authority' for the sake of convenience and clarity.



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3. To be noted, third respondent who is the jurisdictional Inspector of Police is the Sponsoring Authority.

4. When the matter was taken up, Mr.K.Karthik, counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor are before us. Both sides submit that there are multiple accused in the ground case and preventive detention orders have been clamped against all the accused. As many as 12 HCPs filed by other co-accused have been allowed by this Court. The tabulation in this regard is as follows:

Sl.No.	H.C.P.Number	Name of the petitioner	Name of the Detenu	Date of order allowing HCP
1	HCP.No.709/ 2022	R.Manjula	Vignesh @ Appu	01.11.2022
2	HCP No.710/2022	M.Sharmila	Bhuvaneswar@Magesh	26.09.2022
3	HCP No.711/2022	G.Radha	Sanjai @ Ajai	26.09.2022
4	HCP No.714/2022	D.Sumathi	Naveen @ Narambu	01.11.2022
5	HCP.No.742/2022	A.Lokeshwaran	Kishorekumar@Kishore	01.11.2022
6	HCP.No.869/2022	Nirmala	Arun @Kebi	17.10.2022
7	HCP.No.1007/2022	Saranya	Murugesan	15.12.2022
8	HCP No.1096/2022	Menaka	Kutty@uma Maheswaran	04.01.2023



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Sl.No.	H.C.P.Number	Name of the petitioner	Name of the Detenu	Date of order allowing HCP
9	HCP.No.1119/2022	Fathima	Ravi Ramesh @	23.12.2022
10	HCP No.1256/2022	P.Senthilkumar	Gauthaman	23.12.2022
11	HCP No.1326/2022	Kausalya	Sathishkumar	10.01.2023
12	HCP No.1139/2022	Raja	Arun Kumar @ Mannu Muttai,	17.10.2022

5. Both sides submit without any dispute or disagreement that the impugned detention orders in all the aforesaid matters and the captioned matter are identical i.e., *ad verbatim* the same, the trajectory the matters have taken is also similar and the point/points on which the aforementioned 12 HCPs have been allowed is/are available to the petitioner in the captioned HCP also. Therefore, we deem it appropriate to scan and reproduce two of the aforementioned 12 orders, one order dated 01.11.2022 made in H.C.P.No.709 of 2022 and the other dated 26.09.2022 in H.C.P.No.710 of 2022, which are as follows:



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HCP No.1317 of 2022

H.C.P.No.709 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

H.C.P.No.709 of 2022

R.Mangula .. Petitioner

Vs

1.The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3.The Superintendent of Central Prison,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
5-7, Madipakkam Police Station,
Madipakkam, Chennai – 600 091. .. Respondents

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HCP No.1317 of 2022

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H.C.P.No.709 of 2022

Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus call for the records relating to the detention order vide Memo BCDFGISSSV No.36/2022 dated 18.03.2022 passed by the second respondent and set aside the same and direct the respondents to produce the body of the detenu Vignesh @ Appu, male, aged 21 years, S/o.Ramadoss, now confined in the Central Prison, Puzhal, Chennai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Elumalai

For Respondents : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

(Made by P.N.PRAKASH, J.)

The petitioner is the mother of the detenu Vignesh @ Appu, male, aged 21 years, S/o.Ramadoss. The detenu has been detained by the second respondent by his order in BCDFGISSSV No.36/2022 dated 18.03.2022, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though the learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the arrest intimation has not been fully translated in vernacular language. This deprived the detainee from making effective representation. Therefore, on this ground, the detention order is liable to be quashed.

4. On consideration of the submissions made on either side and upon perusal of the documents available on record especially Page Nos.132 and 133 of the booklet, it is clear that the arrest intimation has not been fully translated in vernacular language. Thus the impugned detention order is liable to be set aside on this ground.

In the result, the Habeas Corpus Petition is allowed and the order of detention in BCPG/ISSSV No.36/2022 dated 18.03.2022,

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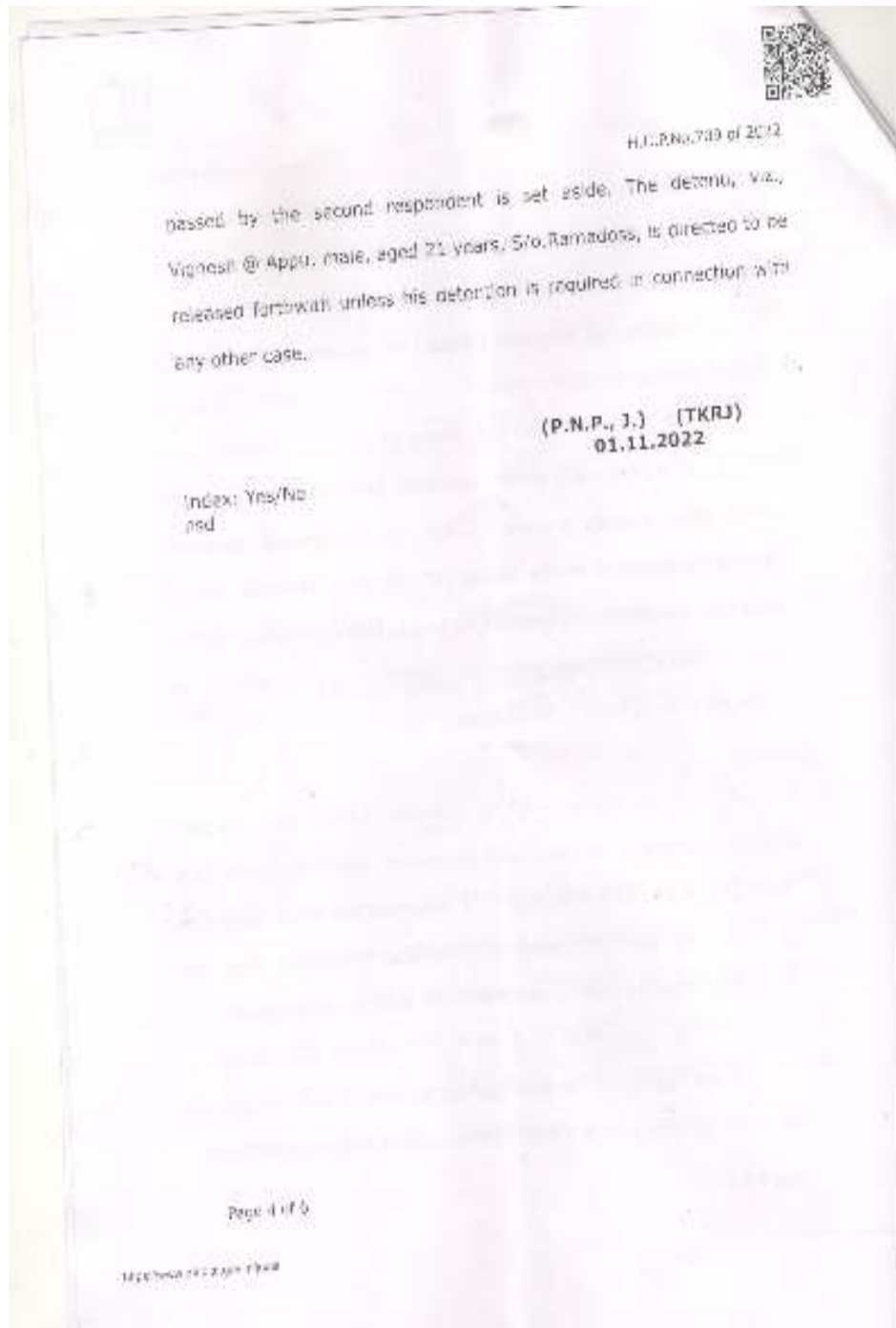
18/03/2022 10:45:10 AM



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HCP No.1317 of 2022

04 SEP 2022
10:30 AM

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

Curam

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE RMT. TELKAA RAMAN

H.C.P.No. 710 of 2022

M. Shanmuga
W/o. Mathakumar

Petitioner

Vs.

1. The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 037.
3. The Superintendent of Central Prison,
Central Prison, Puzhal,
Chennai - 600 066.
4. The Inspector of Police,
S7-Madipakkam Police Station,
Madipakkam, Chennai - 600 091.

Respondents

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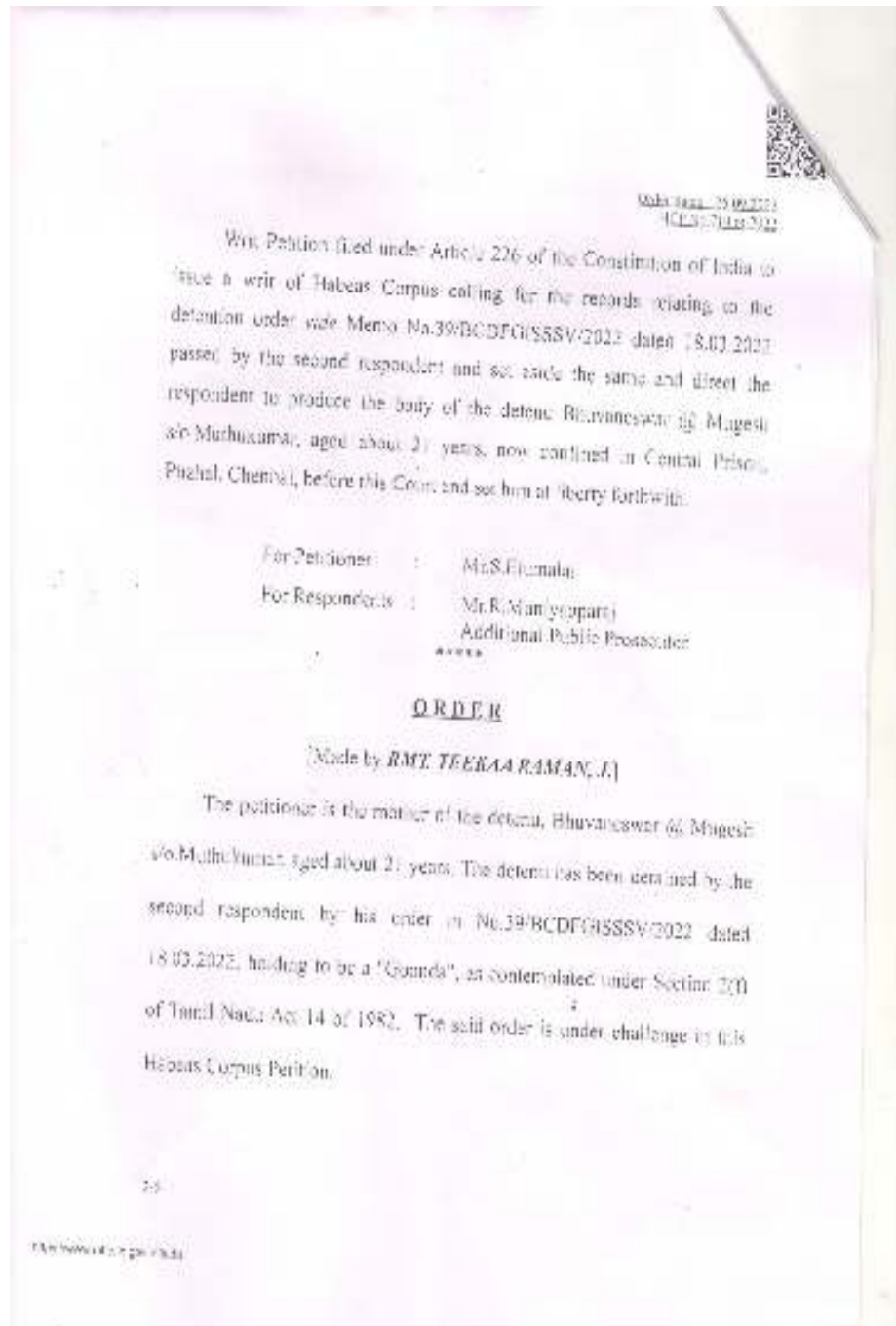
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26/09/2022



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HCP No.1317 of 2022

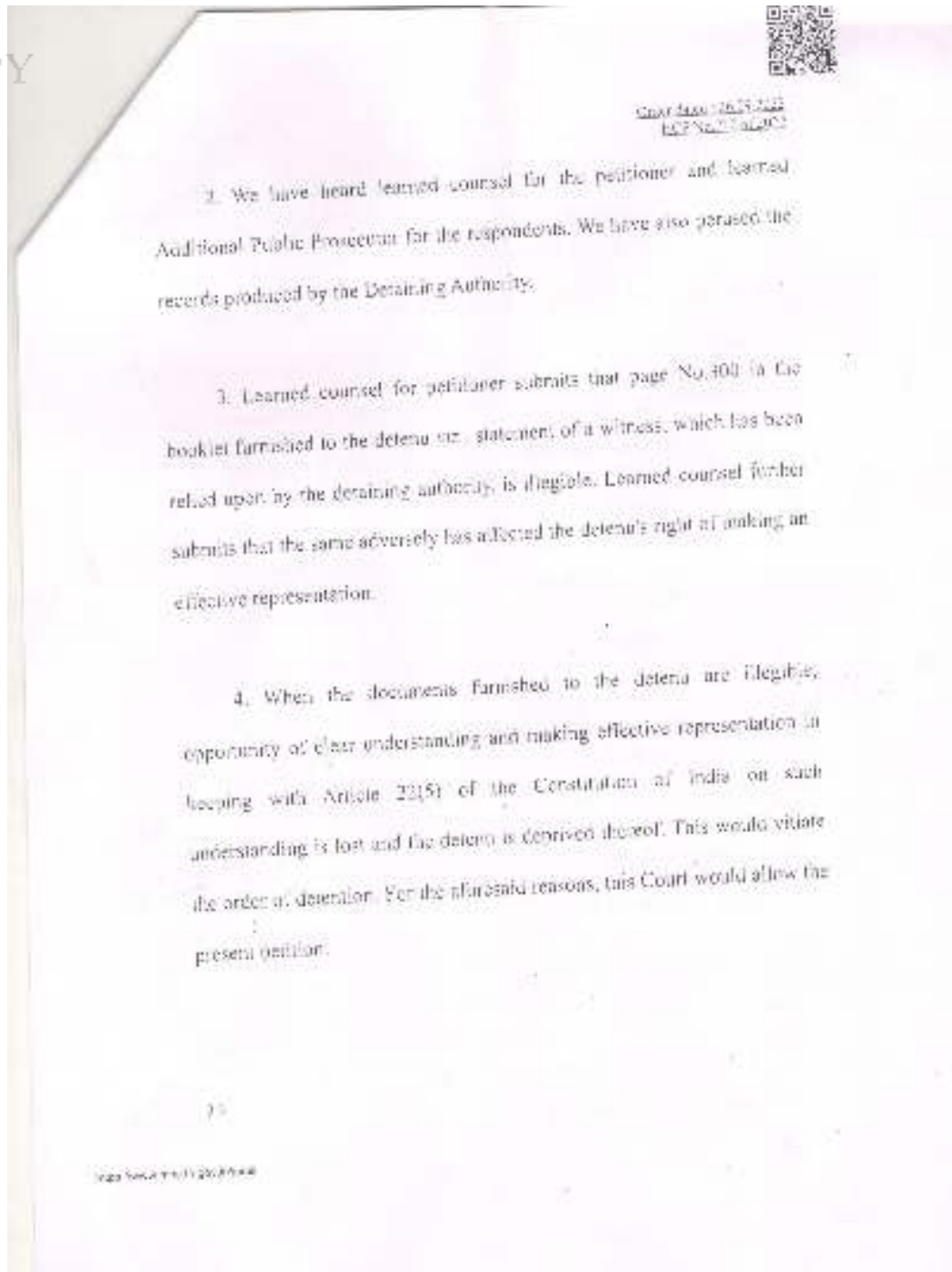




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HCP No.1317 of 2022





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HCP No.1317 of 2022

26/09/2022
LC No 702 of 2022

In the result, the Habeas Corpus Petition is allowed and the order of detention in No.39/BCI/FGISSV/2022 dated 18.03.2022, passed by the second respondent is set aside. The detainee, Mr. Bhuvaneshwar @ Magesh aka. Mathukumar, aged about 21 years, is directed to be released forthwith unless his detention is required in connection with any other case.

[PNB, J.] [TKR, J.]
26.09.2022

Index: Yes/No
jpr

To

1. The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Commissioner of Police,
Greater Chennai,
Chennai City Police,
Office of the Commissioner of Police,
Vandiyar, Chennai - 600 067.
3. The Superintendent of Central Prison,
Central Prison, Puzosai,
Chennai - 600 096.
4. The Inspector of Police,
87-Madhapakkam Police Station,
Madhapakkam, Chennai - 600 091.

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26/09/2022 10:00:00 AM



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6. To be noted, the above matters i.e., H.C.P.Nos.709 of 2022 and 710 of 2022 have been allowed *inter alia* on the ground that right to make an effective representation qua the detenu has been hampered.

7. As there is no dispute that same points are available to the detenu in the captioned HCP also, we deem it appropriate to allow the captioned HCP also.

In the result, the detention order dated 03.06.2022 bearing reference 143/BCDFGISSSV/2022 made by the second respondent is set aside and detenu Muthusaravanan @ Thala, S/o.Govindharaj Pandian, aged 31 years, now confined at Central Prison, Puzhal is directed to be set at liberty forthwith unless required in connection with any other case/s.

(M.S.,J.) (M.N.K.,J.)
01.02.2023

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

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



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HCP No.1317 of 2022

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

gpa

To

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Fort St. George, Chennai – 600 009
2. The Commissioner of Police
Greater Chennai
The Commissioner of Police
Vepery, Chennai-600 007.
3. The Inspector of Police
S-7 Madipakkam Police Station
Chennai
4. The Superintendent of Central Prison
Central Prison II, Puzhal
Chennai – 66
5. The Public Prosecutor
High Court, Madras.

H.C.P.No.1317 of 2022

01.02.2023

ADDENDUM/ERRATA

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H.C.P.No.1317 of 2022

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M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.

(Order of the Court was made by M.SUNDAR, J.)

Captioned matter is listed today (09.02.2023) under the cause list caption 'FOR BEING MENTIONED' at the instance of the Registry as an inadvertent typographical/secretarial error had crept in qua order dated 01.02.2023.

2 The inadvertent typographical/secretarial error is, the name of the detenu and his father's name have been wrongly mentioned in the operative portion / paragraph of the order, i.e., last paragraph. Therefore, the last paragraph in the above order alone will now read as follows:

'In the result, the detention order dated 03.06.2022 bearing reference 143/BCDFGISSV/2022 made by the second respondent is set aside and detenu Mr.Manikandan @ Live Mani, aged 32 years, son of Mr.Muthukumar, now confined at Central Prison,



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*Puzhal is directed to be set at liberty forthwith unless
required in connection with any other case/s.'*

All other paragraphs and contents of the order will remain same. Registry is directed to carry out necessary corrections and issue order copy afresh with this order as an Addendum/Errata.

(M.S., J.) (M.N.K., J.)
09.02.2023

vvk



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HCP No.1317 of 2022

M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.

vvk

H.C.P.No.1317 of 2022

09.02.2023

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