



H.C.P.No.1061 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

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

H.C.P.No.1061 of 2023

B.Deepika

.. Petitioner

Vs.

1.The State of Tamil Nadu rep. By its  
Principal Secretary to Government,  
Prohibition & Excise Department,  
Secretariat, Chennai-9.

2.The District Magistrate and District Collector  
Namakkal District

3. The Superintendent of Police  
Namakkal District

4. The Superintendent of Police  
Central Prison  
Salem

5.The Inspector of Police,  
Pallipalayam Police Station  
Namakkal District

.. 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 pursuant to the detention order vide C.M.P.No.6/Goonda/2023 dated 11.05.2023 passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's husband namely Paambu @ Bagathsingh, aged about 29 yeas, who is detained in Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.M.Karthik  
For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor  
Assisted by  
Mr.Aravind.C

### 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 23.06.2023, this Court made the following order:

**"H.C.P.No.1061 of 2023"**

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

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

***Captioned Habeas Corpus Petition has been filed in this***



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*Court on 13.06.2023 inter alia assailing a detention order dated 11.05.2023 bearing reference C.M.P.No.06/GONDA/2023(M1) made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.*

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

*3. Mr.J.Titus Enock, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 392 read with 397 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for the sake of brevity] in Crime No.122 of 2023 on the file of Veppadai 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 the detention order was not properly translated*



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*into Tamil 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.*

*7. Mr.E.Raj Thilak, 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. However, short forms, short references and abbreviations used in the Admission Board order will continue to be used in the instant order also for the sake of brevity, convenience and clarity.

3. Mr.M.Karthik, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

4. As would be evident from paragraph 5 of aforementioned Admission Board order, at the time of admission, learned counsel for



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petitioner posited his challenge to the impugned preventive detention order on the ground that the detention order was not properly translated in Tamil which prevented the detenu from making an effective representation. Elaborating on this submission, in the final hearing Board, learned counsel drew our attention to page 169 of the grounds booklet, which is a bail order dated 13.05.2021 in CrI.M.P.No.691 of 2021 and it is not readable as regards the lower half of the page. To be noted, subjective satisfaction regarding the imminent possibility of detenu being enlarged on bail has been arrived at by the Detaining Authority by relying on the said document and therefore the same is a very critical and crucial document. We had the benefit of perusing the grounds booklet served on the detenu and we are unable to disagree with the counsel for the petitioner.

5. Learned Prosecutor submitted to the contrary and submitted that only few lines are not readable but we are unable to sustain this submission as the subjective satisfaction has been arrived at by the Detaining Authority by relying on the said document and therefore the said bail order is critical qua detenu making a representation.

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6. The aforementioned flaw in the grounds booklet in our view has impaired the detenu's right to make an effective representation qua the impugned preventive detention order. To be noted, such right of the detenu is a sanctus right ingrained in Article 22(5) of the Constitution of India. To put it differently, a sanctus constitutional safeguard has been infringed. Therefore, we have no hesitation in holding that impugned preventive detention order deserves to be dislodged.

6. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 11.05.2023 bearing reference C.M.P.No.06/Goonda/2023 (M1) made by the second respondent is set aside and the detenu Thiru.Paambu alias Bagathsingh, aged 29 years, son of Thiru.Gopal, 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.)

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Index : Yes

Neutral Citation : Yes

Speaking order

gpa

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

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To  
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- 1.The Principal Secretary to Government (Home)  
Prohibition & Excise Department  
Secretariat, Chennai-9
- 2.The District Magistrate and District Collector  
Namakkal District
3. The Superintendent of Police  
Namakkal District
4. The Superintendent of Police  
Central Prison  
Salem
- 5.The Inspector of Police,  
Pallipalayam Police Station  
Namakkal District
- 6.The Public Prosecutor,  
High Court, Madras.



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

**gpa**

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