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H.C.P.No.1352 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.1352 of 2022

P.Manikandan @ Workshop Mani .. Petitioner

Vs.

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

2.The Commissioner of Police/Detaining Authority,
Coimbatore, Coimbatore District.

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

4.State rep. By its
The Inspector of Police,
E2 Peelamedu Police Station,
Coimbatore 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 detention under Tamil Nadu Act 14 of 1982 vide detention order dated 28.06.2022 on the file of the second respondent herein made in proceedings C.No.37/G/IS/2022 quash the same as illegal and consequently direct the respondents



H.C.P.No.1352 of 2022

herein to produce the petitioner P.Manikandan @ Workshop Mani, S/o.Paramasivam, aged 25 years before this Court and set the petitioner at liberty from detention, now the petitioner detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camylen Gandhi
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by the detenu assailing a 'preventive detention order dated 28.06.2022 bearing reference C.No.37/G/IS/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

2. Impugned detention order has been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law



H.C.P.No.1352 of 2022

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. The ground case which is the sole substratum of the impugned detention order is Crime No.563 of 2022 on the file of E-2 Peelamedu Police Station for alleged offences under Sections 294(b), 452, 323, 324 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.

4. Mr.W.Camyles Gandhi, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.



H.C.P.No.1352 of 2022

WEB COPY

5. Notwithstanding very many averments in the support affidavit, Mr.W.Camyles Gandhi, learned counsel for petitioner advertent to page 76 of the booklet containing the grounds of detention (hereinafter 'said booklet' for the sake of convenience and clarity) submits that the Form of Order for the Detention in Custody of an Accused Person under Section 167 of Code of Criminal Procedure, 1973 (Judicial Form No.14) which is in English has not been correctly translated in Tamil. We had the benefit of perusing the aforementioned Form at page 76 and translation of the same in Tamil in page 77.

6. Learned State Additional Public Prosecutor submitted to the contrary that only a handwritten note of the learned Magistrate which is more in the nature of a postscript has not been translated. We had the benefit of perusing the said booklet and more particularly the aforementioned pages 76 and 77. We also noticed from the confession statement of the detenu that the literacy level of the detenu is barely third standard in school. Therefore, translation in a language which the detenu is conversant with is imperative. In this regard, we remind ourselves of *Pownammal* case wherein, in a matter



H.C.P.No.1352 of 2022

of preventive detention which arose from this Court, Honourable Supreme Court addressed itself to the question of providing translation in a language which the detenu is conversant with. To be noted, *Pownammal* case is reported in **(1999) 2 SCC 413 (Pownammal Vs. State of Tamil Nadu)**. The question which the Honourable Supreme Court addressed itself to and the answer to the same are captured in paragraphs 6 and 16 respectively {as in SCC journal} of the *Pownammal* case and the same 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. '

7. We find that the aforementioned *Pownammal* case applies in all fours to the case on hand as we find that the handwritten part of



H.C.P.No.1352 of 2022

the aforementioned form which talks about medication to be administered to the arrestee has not been translated and furnished to the detenu and therefore considering the facts and circumstances of the case and more particularly literacy level of the detenu, we are inclined to accept the argument made by the petitioner, in other words, the point is sustained.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 28.06.2022 bearing reference C.No.37/G/IS/2022 made by the second respondent is set aside and the detenu Thiru.P.Manikandan @ Workshop Mani, male, aged 25 years, son of Thiru.Paramasivam 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.) (M.N.K.,J.)
13.03.2023

Index : Yes / No
Neutral Citation : Yes / No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Coimbatore.

To

Page No.6 of 8



H.C.P.No.1352 of 2022

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- 5.The Public Prosecutor
High Court, Madras.



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