



WEB COPY



HCP No.1451 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.1451 of 2022

Kumari

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Avadi City.

3.The Superintendent,
Central Prison-II,
Puzhal, Chennai.

4.The Inspector of Police [Law & Order],
E-4, Kattur Police Station,
Tiruvallur.

... Respondents

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 connection



HCP No.1451 of 2022

with the order of Detention passed by the second respondent dated 14.06.2022 in Memo No.56/BCDFGIISSSV/2022 against the petitioner's son Thiru.Manikandan, Male, aged about 26 years son of Anandaraj who is confined at Central Prison, Puzhal-II, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner	:	Mr.A.Venkateswara Babu
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor Assisted by Mr.M.Sylvester John

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by the mother of the detenu assailing 'detention order dated 14.06.2022 bearing reference Memo No.56/BCDFGIISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience] made by the 'second respondent' [hereinafter 'detaining authority' for the sake of convenience and clarity]. To be noted, fourth respondent is the sponsoring authority.

2.Impugned detention order has been made under 'The Tamil Nadu



HCP No.1451 of 2022

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] on the premise that the detenu is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There is one adverse case and one ground case. The ground case which is the substratum of the impugned detention order is Crime No.125 of 2022 on the file of E-4 Kattur Police Station for alleged offences under Sections 147, 148 and 302 '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.A.Venkateswara Babu, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John learned counsel for respondents are before us.



HCP No.1451 of 2022

WEB COPY

5. Notwithstanding very many averments in the support affidavit qua captioned HCP, learned counsel for petitioner submits that page Nos. 167 to 170 of the grounds of detention which was served to the detenu in the form of a booklet are completely illegible. We had the benefit of perusing the booklet and we find that the contention is correct. To be noted, these pages pertain to a confession statement. This certainly hampers the right of the detenu in making an effective representation. Right of detenu to make an effective representation qua preventive detention is a constitutional safeguard ingrained in Clause (5) of Article 22 of the Constitution of India. We have no difficulty in coming to the conclusion that there is an infraction of this constitutional safeguard and therefore, the impugned detention order is liable to be dislodged.

6. Apropos, the sequitur is, captioned HCP is allowed and the detention order dated 14.06.2022 bearing reference Memo No.56/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru. Manikandan, aged 26 years, son of Thiru. Anandaraj is



HCP No.1451 of 2022

directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
07.03.2023

Index:Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison-II, Puzhal, Chennai

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
Avadi City.
- 3.The Superintendent,
Central Prison-II,
Puzhal, Chennai.
- 4.The Inspector of Police [Law & Order],
E-4, Kattur Police Station, Tiruvallur.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



WEB COPY



HCP No.1451 of 2022

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

cse

H.C.P.No.1451 of 2022

07.03.2023