



H.C.P.No.1184 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

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

H.C.P.No.1184 of 2023

Grace Mary

.. Petitioner

Vs

1.The Secretary to Government,
Government of Tamil Nadu (Home)
Prohibition and Excise Department,
Fort St. George, Chennai – 9.

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

3.The Superintendent,
Central Prison, Coimbatore.

4.The Inspector of Police,
C2 Race Course (L&O) Police Station,
Coimbatore City.

.. 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 relating to the impugned order C.No.40/G/IS/2023 dated 10.04.2023 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner's husband M.Parthasarathi @ Sarathi, son of Mani, aged about 23 years, now

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confined at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.G.Vinodh Kumar
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

This order will now dispose of captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity, convenience and clarity].

2. When the captioned HCP was listed for Admission on 07.07.2023, the following proceedings/order was made:

'H.C.P.No.1184 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 Court on 28.06.2023 inter alia assailing a detention 'order dated 10.04.2023 bearing reference C.No.40/G/IS/2023' [hereinafter 'impugned preventive detention order' for the sake of convenience and clarity] 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, wife of detenu is the petitioner.

3. Mr.G.Vinodhkumar, learned counsel on record for



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petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 147, 148, 302, 307 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for the sake of brevity] and subsequently, altered into Sections 120B, 147, 148, 302, 307 and 506(ii) of IPC in Crime No.82 of 2023 on the file of C-2 Race Course Police Station, Coimbatore City.

4. The aforementioned impugned preventive 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 impugned preventive detention order has been assailed inter alia on the ground that some of the pages in the grounds booklet furnished to the detenu are illegible 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.'

3. The aforementioned proceedings/order dated 07.07.2023 captures all essentials i.e., essential facts imperative for appreciating this final order and therefore we are not setting out the facts again. Suffice to say that the aforementioned Admission Board order dated 07.07.2023 shall now be read as an integral part and parcel of the instant final order. This also means that the short forms, short



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references and abbreviations used in the aforementioned Admission Board order will continue to be used in the instant final order also.

4. Mr.G.Vinodh Kumar, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for all the respondents are before us.

5. As would be evident from paragraph 5 of the 07.07.2023 Admission Board order, at the time of admission, learned counsel for petitioner posited his challenge against the impugned preventive detention order on the ground that some of the pages in the grounds booklet furnished to the detenu are illegible.

6. Elaborating on the above submission, in the Final Hearing Board today, learned counsel for petitioner submitted that the Seizure Mahazar pertaining to the ground case furnished in the grounds booklet is completely not readable. Learned counsel drew our attention to page No.67 of the grounds booklet and a scanned reproduction of the same is as follows:



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8. We have no hesitation in persuading ourselves to say that detenu's sacrosanct constitutional right to make an effective representation against the impugned preventive detention order has been impaired owing to the aforementioned copy which is not readable at all. This means that there is infraction of constitutional safeguard ingrained in Article 22 (5) of the Constitution of India leading to the inevitable sequitur that impugned preventive detention order deserves to be dislodged.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 10.04.2023 bearing reference C.No.40/G/IS/2023 made by the second respondent is set aside and the detenu Thiru.M.Parthasarathi @ Sarathi, aged 23 years, Son of Thiru.Mani, 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.)
19.09.2023

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.

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To

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Government of Tamil Nadu (Home)
Prohibition and Excise Department,
Fort St. George, Chennai – 9.
- 2.The Commissioner of Police / Detaining Authority,
Coimbatore City.
- 3.The Superintendent,
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- 4.The Inspector of Police,
C2 Race Course (L&O) Police Station,
Coimbatore City.
- 5.The Public Prosecutor,
High Court, Madras.



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

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