



WEB COPY



HCP No.1486 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.1486 of 2022

Selvajothi

.. Petitioner

Vs.

The State rep. by its

1.The Secretary to Government [Home]
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The Commissioner of Police,
O/o.Commissioner of Police,
Vepery, Chennai – 600 007.

3.The Superintendent of Police,
Central Prison, Puzhal,
Thiruvallur District.

4.The Deputy Commissioner of Police,
Central Crime Branch, Vepery,
Chennai – 600 007.

5.The Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 007.

... Respondents



HCP No.1486 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 pertaining to the order of detention dated 13.07.2022 passed by the second respondent bearing No.195/BCDFGISSSV/2022 and quash the same and produce the detenu Vetrимaran @ Vinothkumar, aged about 36 years, S/o.Chandran before this Court and set him at liberty.

For Petitioner : Mr.R.Thirumoorthy
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 wife of the detenu assailing 'detention order dated 13.07.2022 bearing reference Memo No.195/BCDFGISSSV/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, fifth respondent is the sponsoring authority.

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



HCP No.1486 of 2022

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.78 of 2022 on the file of Central Crime Branch, Chennai for alleged offences under Sections 406, 420, 465, 468, 120(B) read with Section 34 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.R.Thirumoorthy, 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.1486 of 2022

5. Notwithstanding very many averments/grounds in the support affidavit qua captioned HCP, learned counsel for petitioner points out that a formal arrest was made in the ground case i.e., Crime No.78/2022 on the file of Central Crime Branch-I, Chennai. This has been recorded vide a separate proceedings as the detenu was already incarcerated in Crime No.112/2022 on the file of Central Crime Branch-I, Chennai which is the lone adverse case. This formal arrest has been recorded in proceedings made by the jurisdictional Inspector of Police and these proceedings have been annexed at Page No.581 of the grounds of detention which was served to the detenu in the form of a booklet.

6. We had the benefit of perusing the booklet. As rightly pointed out by learned counsel for petitioner we find that these proceedings does not contain a date. Be that as it may, this formal arrest has not been intimated to any near relative or friend of the detenu.

7. Learned Additional Public Prosecutor, on instructions submits to the contrary that the proceedings itself refers to one Santhanam and that he is the detenu's blood brother but there is nothing to demonstrate that the



HCP No.1486 of 2022

blood brother of the detenu has been intimated. Therefore, we have no difficulty in coming to the conclusion that the sanctus rights of the detenu to make an effective representation qua impugned detention order have been hampered. To be noted, such a right is a constitutional safeguard ingrained in Clause (5) of Article 22 of the Constitution of India. Therefore, we have no hesitation in saying that the impugned detention order deserves to be dislodged.

8.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 13.07.2022 bearing reference Memo No.195/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Vetrimaran @ Vinothkumar, aged 36 years, son of Thiru.Chandran is 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, Puzhal, Chennai

5/7



HCP No.1486 of 2022

WEB COPY

To

- 1.The Secretary to Government [Home]
Prohibition and Excise Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
O/o.Commissioner of Police,
Vepery, Chennai – 600 007.
- 3.The Superintendent of Police,
Central Prison, Puzhal,
Thiruvallur District.
- 4.The Deputy Commissioner of Police,
Central Crime Branch, Vepery,
Chennai – 600 007.
- 5.The Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 007.
- 6.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



WEB COPY



HCP No.1486 of 2022

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

cse

H.C.P.No.1486 of 2022

07.03.2023