



WEB COPY



H.C.P.No.1297 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 16.08.2023**

**CORAM**

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

**H.C.P.NO.1297 OF 2023**

Johnson Paulraj  
S/o.David

.. Petitioner

**VS**

- 1.The Secretary to Government of Tamil Nadu  
Home, Prohibition and Excise Department  
Secretariat  
Chennai – 600 009
- 2.Office of the District Magistrate and District Collector  
Chengalpattu District  
Chengalpattu
- 3.The Inspector of Police  
Padalam Police Station  
Chengalpattu District
4. The Superintendent of Police  
Chengalpattu district
5. The Superintendent of Police  
Central Prison, Puzhal  
Chennai

.. Respondents



H.C.P.No.1297 of 2023

**PRAYER:** Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to call for the records of the detention made in CPT No.26/2023 dated 27.03.2023 passed by the Office of the District Magistrate and District Collector, Chengalpattu District, Chengalpattu the second respondent herein and set aside the same and direct the respondents to produce the detenu before this Court and set the detenu Thru.Edwin, son of Pachaimal, aged 28 years, now confined at Central Prison, Puzhal, Chennai at liberty.

For Petitioner : Mr.S.Senthilvel  
for Mr.N.Sudharsan

For Respondents : Mr.E.Raj Thilak  
Additional Public Prosecutor

### **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] came up for admission on 19.07.2023, this Bench made the following order:

***"H.C.P.No.1297 of 2023***

**M.SUNDAR, J.,**

**and**

**M.NIRMAL KUMAR, J.,**

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

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



WEB COPY



H.C.P.No.1297 of 2023

*Court on 10.07.2023 inter alia assailing a 'detention order dated 27.03.2023 bearing reference CPT No.26/2023' [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, third respondent is the Sponsoring Authority.*

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

*3. Mr.N.Sudharsan, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is registered for an alleged offence under Section 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] in Crime No.256 of 2022 on the file of Padalam Police Station.*

*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 'live and proximate link'*



WEB COPY



H.C.P.No.1297 of 2023

*between the grounds of detention and purpose of detention has snapped as date of arrest in the ground case is 08.02.2023 but the impugned detention order has been made only on 27.03.2023.*

*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 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.S.Senthilvel, learned counsel representing the 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.1297 of 2023

4.To be noted, 'order dated 27.03.2023 bearing reference CPT No.26/2023' made by second respondent / Detaining Authority shall in this order be referred to as 'impugned preventive detention order' for the sake of convenience and clarity.

5. As would be evident from paragraph 5 of the Admission Board order, at the time of admission learned counsel for petitioner predicated his challenge to the impugned preventive detention order on the point that 'live and proximate link' between the grounds of detention and purpose of detention has snapped as date of arrest in the ground case is 08.02.2023 but the impugned preventive detention order has been made only on 27.03.2023, however in the final hearing board today learned counsel projected his argument qua challenge to the impugned preventive detention order on the point of not providing of translated copy of documents (relied on by the detaining authority) in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to pages 215, 217 and 219 of the booklet which are remand order dated 10.02.2023, remand extension orders dated 24.02.2023 and 24.03.2023 and detenu's bail petition in CrI.M.P.No.1450 of 2023 relied on by the



H.C.P.No.1297 of 2023

Detaining Authority respectively. Learned counsel submitted that these documents have been referred to in the impugned preventive detention order by the Detaining Authority. No Tamil translation of these document have been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that aforementioned remand order, remand extension orders and bail petition form part of the grounds on which the impugned detention order has been made. As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

6. Be that as it may, we are informed that the literacy level of the detenu is X Standard and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. Relevant portion of the confession statement reads as follows:

'என் பெயர் எட்வின். எனக்கு 28/வயது ஆகிறது.  
நான் 10ஆம் வகுப்பு வரை திருநெல்வேலி மாவட்டம்  
கரிசல்பட்டியில் படித்துள்ளேன்.'

7. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the



H.C.P.No.1297 of 2023

Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, ***Powanammal*** case is reported in (1999) 2 SCC 413 and paragraphs 6 and 16 {as in SCC journal} 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. '*

8. In the case on hand, we find that remand order, remand extension orders and bail petition which have been relied on as part of the grounds of detention qua impugned detention order are crucial documents and not furnishing translation of the same in Tamil, the lone language known to the detenu has impaired his constitutional right to make an effective representation qua the impugned detention order. We therefore



H.C.P.No.1297 of 2023

have no hesitation in saying that the impugned detention order deserves to be dislodged.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 27.03.2023 bearing reference CPT No.26/2023 made by the second respondent is set aside and the detenu Thiru. Edwin, aged 28 years, Son of Pachaimal 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.)  
16.08.2023

Index : Yes

Speaking order

Neutral Citation: Yes

gpa

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



H.C.P.No.1297 of 2023

To

- 1.The Secretary to Government of Tamil Nadu  
Home, Prohibition and Excise Department  
Secretariat  
Chennai – 600 009
- 2.Office of the District Magistrate and District Collector  
Chengalpattu District  
Chengalpattu
- 3.The Inspector of Police  
Padalam Police Station  
Chengalpattu District
4. The Superintendent of Police  
Chengalpattu district
5. The Superintendent of Police  
Central Prison, Puzhal  
Chennai
- 6.The Public Prosecutor  
High Court, Madras.



WEB COPY



H.C.P.No.1297 of 2023

M.SUNDAR, J.  
AND  
R.SAKTHIVEL, J.

gpa

H.C.P.NO.1297 OF 2023

16.08.2023