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H.C.P.No.1557 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

Coram

THE HON'BLE Mr.JUSTICE **M.SUNDAR**
and
THE HON'BLE Mr.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.1557 of 2022

Tmt.Mani

... Petitioner/Mother of the detenu

-Vs-

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat, Chennai – 600 009.
- 2.The District Collector and District Magistrate of
Vellore, Vellore District.
- 3.The Superintendent of Police,
Vellore, Vellore District.
- 4.The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.
- 5.The Inspector of Police,
Gudiyatham Town Police Station,
Vellore District.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent in his office



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Ref.C3.D.O.No.79/2022 dated 19.07.2022 against the petitioner's son by name Thiru.Govindaraj, S/o.Murugan, aged about 39 years, now confined at Central Prison, Vellore, Vellore District and set aside the same and direct the respondents to produce the above said detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan
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' ('HCP' for the sake of brevity) has been filed by mother of detenu assailing a 'preventive detention order dated 19.07.2022 bearing reference C3/D.O.No.79/2022' (hereinafter 'impugned detention order' for the sake of convenience). 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, 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.263/2022 on the file of Gudiyatham Town Police Station for alleged offences under Section 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity]. 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.E.Kannadasan, learned counsel for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.M.Sylvester John for all five respondents are before us.

5. Notwithstanding very many averments in the support affidavit, Mr.E.Kannadasan, learned counsel for petitioner points out that arrest intimation Form at page 23 of booklet shows that the signature of the person to whom the arrest has been intimated is not there and only phone number is given.

6. Mr.R.Muniyapparaj, learned Additional Public Prosecutor assisted by Mr.M.Sylvester John submitted that it appears that intimation has been given to a near relative but this may not be of any avail as we are concerned that the



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material furnished by detaining authority on the date of the impugned detention order.

7. We had the benefit of perusing the booklet. We find that there is no signature in the arrest intimation Form. This, in preventive detention jurisprudence means that the right of the detenu to make an effective representation is hampered. To be noted, this right is a constitutional safeguard ingrained in Clause (5) of Article 22 of Constitution of India. In this view of the matter, the impugned detention order is vitiated and the same is liable to be set aside.

8. Ergo, the sequitur is, H.C.P. No.1557 of 2022 is allowed, impugned detention order dated 19.07.2022 bearing reference C3/D.O.No.79/2022 made by the second respondent is set aside and detenu Mr.Govindaraj, male, aged 39 years, son of Mr.Murugan, now detained in Central Prison, Vellore is directed to be set at liberty forthwith unless required in connection with any other case/s.

(M.S,J.) (M.N.K.,J.)
02.03.2023

Speaking / Non-speaking
Neutral Citation : Yes / No
kmi

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



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To

1. The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat, Chennai – 600 009.
2. The District Collector and District Magistrate of
Vellore, Vellore District.
3. The Superintendent of Police,
Vellore, Vellore District.
4. The Superintendent of Prison,
Central Prison, Vellore,
Vellore District.
5. The Inspector of Police,
Gudiyatham Town Police Station,
Vellore District.
6. The Public Prosecutor,
Madras High Court, Chennai – 104.



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