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H.C.P.No.1598 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.1598 of 2022

Hemavathi
W/o.Sekar

... Petitioner/Mother of the Detenu

-VS-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.The District Collector & District Magistrate,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Police,
Kancheepuram,
Kancheepuram District.
- 4.The Superintendent of Prison,
Central Prison – Puzhal, Chennai,
Chennai District.
- 5.State Rep. by its
The Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

... Respondents



H.C.P.No.1598 of 2022

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records, relating to the petitioner's son detention under Tamil Nadu Act 14 of 1982 vide detention order dated 21.07.2022 on the file of the second respondent herein made in proceedings Memo Rc.No.12482/2022/M6-D.O.No.31/2022, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's namely ANBU @ ANBARASU, S/o.Sekar, aged 25 years before this Court and set the petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Puzhal, Chennai.

For Petitioner .. Mr.V.Parthiban
for Mr.R.Sasikumar

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 21.07.2022 bearing reference Memo Rc.No.12482/2022/M6-D.O.No.31/2022' (hereinafter 'impugned detention order' for the sake of convenience). To be noted, fifth respondent is the sponsoring authority and



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second respondent is the detaining authority as the impugned detention order has been made by second respondent.

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 are two adverse cases and one ground case. The ground case which is the substratum of the impugned detention order is Crime No.426/2022 on the file of Sriperumbudur Police Station for alleged offences under Sections 294(b), 323, 392, 397, 307 and 506(ii) 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.



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4. Mr.V.Parthiban, learned counsel representing Mr.R.Sasikumar, learned counsel on record 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 qua captioned HCP, Mr.V.Parthiban, learned counsel appearing on behalf of counsel on record for petitioner submits that there are two adverse cases, one ground case and the detenu was arrested on 01.07.2022 in all three cases. Adverting to Page 39 (I adverse case), Page 99 (II adverse case) and page 149 (ground case) in the booklet i.e., Grounds of detention, learned counsel submits that in all three cases arrest intimation has not been given to near relative/friend.

6. Learned Additional Public Prosecutor submits to the contrary that the wife of the detenu has been intimated but we find from the page numbers adverted to by the learned counsel for petitioner that there is no signature. This means that the right of the detenu to make effective representation qua the impugned detention order is impaired. This further means that constitutional safeguard ingrained in Clause (5) of Article 22 of



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the Constitution of India is impaired. This leads us to the conclusion that the impugned detention order deserves to be dislodged.

7. Ergo, the sequitur is, H.C.P. No.1598 of 2022 is allowed, impugned detention order dated 21.07.2022 bearing reference Memo Rc.No.12482/2022/M6-D.O.No.31/2022 made by the second respondent is set aside and detenu Mr.Anbu @ Anbarasu, male, aged 25 years, son of Mr.Sekar, now detained in Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith unless required in connection with any other case/s.

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

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
rsi

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

To

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

M.SUNDAR, J.



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and
M.NIRMAL KUMAR, J.

rsi

2.The District Collector & District Magistrate,
Kancheepuram District,
Kancheepuram.

3.The Superintendent of Police,
Kancheepuram,
Kancheepuram District.

4.The Superintendent of Prison,
Central Prison – Puzhal, Chennai,
Chennai District.

5.The Inspector of Police,
Sriperumbudur Police Station,
Kancheepuram District.

6.The Public Prosecutor,
High Court, Madras.

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