



H.C.P.No.1658 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM

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

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

H.C.P.No.1658 of 2022

Elumalai  
S/o.Settu

.. Petitioner

Vs.

1. State of Tamil Nadu  
Rep. by the Additional Chief Secretary to Government  
Home, Prohibition and Excise Department  
Fort St.George, Chennai-600 009.
2. The District Collector and District Magistrate  
Villupuram District  
Villupuram.
3. The Superintendent of Prison  
Central Prison  
Cuddalore.
4. The Inspector of Police  
Thiruvannainallur Police Station  
Villupuram.

.. Respondents

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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 detention order in Memo No.Rc.No.C2/5700/2022 dated 05.08.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son detenu Sarathraj @ Sarath, aged about 21 years, now confined in Central Prison, Cuddalore before this Hon'ble Court and set him liberty.

|                 |   |                                                                                              |
|-----------------|---|----------------------------------------------------------------------------------------------|
| For Petitioner  | : | Mr.G.Saravanabhavan                                                                          |
| For Respondents | : | Mr.R.Muniyapparaj<br>Additional Public Prosecutor<br>assisted by<br>Mr.N.Narkeeran, Advocate |

### **ORDER**

**[Order of the Court was made by N.ANAND VENKATESH, J.,]**

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by father of detenu assailing a 'preventive detention order dated 05.08.2022 bearing reference Rc.No.C2/5700/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.

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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 no adverse case and one ground case. The ground case which is the sole substratum of the impugned detention order is Crime No.420 of 2022 on the file of Thiruvannainallur Police Station for alleged offences under Section 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] and subsequently, altered into Sections 302, 147, 120B, 341, 364, 201 IPC read with Section 34 of IPC. 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.G.Saravanabhavan, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.N.Narkeeran, learned counsel for all respondents are before us.

5. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument qua challenge to the impugned detention order on one point and that point is not providing correct translated copy of a document (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 page No.54 of the booklet which is the arrest intimation form. No Tamil translation of this form has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that the arrest intimation form forms part of the ground 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.

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6. Be that as it may, we are informed that the literacy level of the detenu is 12th standard in school and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. 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 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. '*

7. We find that the aforementioned **Powanammal** case applies in all fours to the case on hand as we find that arrest intimation form which has been relied on as part of the grounds of detention qua impugned detention order is a crucial form and not furnishing the same in Tamil the lone language known to the detenu has impaired his constitutional right to make an effective representation of the impugned detention order. We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

8. Learned Additional Public Prosecutor, on instructions submitted that the detenu in this case was arrested on 20.07.2022, after investigation was taken up and the same was completed and final report was filed on time i.e., on 11.10.2022. Thereafter, the case was committed and now pending on the file of the Additional District and Sessions Court Villupuram in S.C.No.305 of 2022. Hence, in the event of the detenu filing a bail application, the same shall be dealt with on its own merits and in



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accordance with law and the order passed in this HCP will not have any bearing.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 05.08.2022 bearing reference Rc.No.C2/5700/2022 made by the second respondent is set aside and the detenu Thiru.Sarathraj alias Sarath, aged 21 years, son of Elumalai, 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.)

(N.A.V.,J.)

20.03.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mk

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



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To

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5. The Public Prosecutor  
High Court, Madras.



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**M.SUNDAR, J.,**  
**and**  
**N.ANAND VENKATESH, J.,**

mk

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