



H.C.P.No.1683 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

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THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1683 of 2022

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Petitioner/
Mother of Detenu

Vs.

1.The State rep. by its,
The Secretary to Government,
Home, Prohibition & Excise Department
Fort St. George, Secretariat,
Chennai-600 009.

2.The Commissioner of Police/Detaining Authority,
Office of the Commissioner of Police,
Coimbatore City.

3.The Superintendent of Prison,
Central Prison at Coimbatore,
Gandhipuram, Coimbatore.

4.The Inspector of Police,
D-1 Ramanathapuram Police Station,
Coimbatore City.

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Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in Detention Order in C.No.49/G/IS/2022 dated 03.08.2022 on the file of the second respondent and set aside the same and direct the respondents herein to produce the body of the son of the petitioner/detenu G.Manikandan @ Gundu Manikandan S/o.Gopal aged about 44 years now confined in Central Prison at Coimbatore before this Court and set him at liberty.

For Petitioner : Ms.R.Subradra Devi

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 the mother of detenu assailing a 'preventive detention order dated 03.08.2022 bearing reference C.No.49/G/IS/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 are three adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.348 of 2022 on the file of D-1 Ramanathapuram Police Station for alleged offence under Sections 294(b), 307 and 506(ii) 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.Ms.R.Subadra Devi, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by



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Mr.M.Sylvester John, learned counsel for all respondents are before us.

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5. Notwithstanding very many averments in the support affidavit qua captioned HCP, learned counsel for petitioner predicates her campaign against the impugned detention order on one point and that one point turns on imminent possibility of the detenu being enlarged on bail. Adverting to paragraph 8 of the impugned detention order, learned counsel submits that the Detaining Authority has relied on bail that has been granted in Crime No.644 of 2018 for alleged offences under Sections 294(b), 307 and 506(ii) of IPC on the file of Coimbatore City, D-3 Podanur Police Station.

6. We had the benefit of perusing the booklet containing the grounds of detention, in which Page 177 is the bail order in Crime No.644 of 2018. A mere perusal of this order being order dated 16.10.2018 made in C.M.P.No.7597 of 2018 on the file of learned Judicial Magistrate No.VII, Coimbatore brings to light that it is default bail granted under Section 167(2) Cr.P.C. Therefore comparison of this order with the ground case to say that there is imminent possibility of detenu being enlarged on bail is a



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clear case of comparing Apples and Oranges or in other words, comparing two orders which are completely dissimilar. Therefore, the subjective satisfaction arrived at by the detaining authority qua imminent possibility of detenu being enlarged on bail is clearly impaired. This means that the impugned detention order deserves to be dislodged.

7.Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 03.08.2022 bearing reference C.No.49/G/IS/2022 made by the second respondent is set aside and the detenu Thiru.G.Manikandan @ Gundu Manikandan, male, aged 44 years, son of Thiru.Gopal 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.)

(M.N.K.,J.)

16.03.2023

Index : Yes

Speaking

Neutral Citation : Yes

cse

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

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The Secretary to Government,
Home, Prohibition & Excise Department
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Chennai-600 009.

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4.The Inspector of Police,
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5.The Public Prosecutor
High Court, Madras.



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