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HCP No.1706 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**  
and  
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

**H.C.P. No.1706 of 2022**

Rekha

W/o.Prakash @ Suruttai Prakash

... Petitioner (Wife of Detenu)

-VS-

1.State of Tamil Nadu,  
Rep. by The Secretary,  
Home, Prohibition & Excise Department,  
Fort St. George,  
Chennai – 600 009.

2.The Commissioner of Police,  
Avadi City,  
Office of the Commissioner of Police,  
Avadi, Chennai – 600 054.

3.The Superintendent of Police,  
Central Prison, Puzhal,  
Chennai – 66.

4.The Inspector of Police,  
T-3 Korattur Police Station,  
Chennai.

... Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Memo No.61/BCDFGISSSV/2022 dated 23.06.2022 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's husband Prakash @ Suruttai Prakash, S/o.Baskaran, aged about 26, the detenu now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's husband Prakash @ Suruttai Prakash S/o.Baskaran aged about 26 years the detenu herein at liberty.

For Petitioner .. Ms.R.Pushpalatha  
for M/s.M.Kaveri Selvam

For Respondents .. Mr.R.Muniyapparaj  
Additional Public Prosecutor

### **ORDER**

**[Order of the Court was made by M.NIRMAL KUMAR, J.]**

Captioned Habeas Corpus Petition ['HCP' for the sake of brevity] has been filed in this Court on 29.08.2022 assailing an order of detention dated 23.06.2022 bearing reference No.61/BCDFGISSSV/2022 [hereinafter



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referred as 'impugned detention order' for the sake of convenience and clarity]

made by the second respondent i.e. jurisdictional Commissioner of Police [hereinafter referred as 'detaining authority' for the sake of convenience and clarity]. To be noted the fourth respondent who is the jurisdictional Inspector of Police is the Sponsoring authority.

2.The petitioner is the wife of the detenu. The impugned detention order has been made by the detaining authority on the premise that the detenu is a Goonda within the meaning of Section 2(f) of The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders Slum grabbers and Video Priates Act, 1982 (Tamil Nadu Act 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience]. As against the petitioner there are two adverse cases and one ground case in Crime No.302 of 2022 on the file of T-3 Korattur Police Station for the alleged offence under Sections 147, 148, 341, 294(b), 323, 336, 427, 397 and 506(ii) IPC.

3.The contention of the learned counsel for the petitioner is that the



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second adverse case [Crime No.303 of 2022] and ground case [Crime No.302 of 2022] were registered by T-3 Korattur Police. He would submit that the case in Crime No.303 of 2022 projected as though it is an offshoot based on a confession made by the accused, in Crime No.302 of 2022. He further submitted that it is recorded in Crime No.303 of 2022 the detenu was produced in the residence of the learned Principal Special Judge, EC & NDPS Act, Chennai on 26.05.2022 at about 11.00 p.m. and in Crime No.302 of 2022, the detenu shown produced at the residence of learned Judicial Magistrate, Ambattur on the same day i.e. 26.05.2022 at 11.30 p.m. The detaining authority ought to have sought for an explanation from the Sponsoring authority as to how within such short time remand can be made in both the cases almost simultaneously. In support of the above contention, the learned counsel for the petitioner referred to page Nos.166, 167 and 299 of the booklet.

4.The learned counsel for the petitioner further submitted that in the Arrest card [which is in page No.273 of the booklet] it is mentioned only as A7 and no names given. Further, the translation copies of the Arrest card not



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furnished. He further submitted that Document No.1 at page No.3 and Document No.2 at Page No.9 in the booklet are not legible and readable, hence, prejudice is caused to the detenu denying effective representation. He would further submit that the petitioner's representation dated 14.07.2022 not properly considered. Hence, the impugned detention order is liable to be quashed.

5.The learned Additional Public Prosecutor opposed the contention of the learned counsel for the petitioner attacking the remand order by stating that eventhough the cause title would reflect that the detenu was produced before the Special Court, but he was actually produced before the learned Judicial Magistrate, Ambattur on 26.05.2022 as could be seen in the signature column. He further submitted that the subsequent remand extension made by the learned Principal Special Judge, EC & NDPS Act Cases, Chennai and the same is found in the signature column, recorded in Page No.167 of the booklet. Further, with regard to the time factor, in Tamil version of the remand order at Page No.169 of the booklet it is clear. He further submitted that though some pages are slightly blurred, but they are readable. He would



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also submit that the representation given by the petitioner has been considered with a delay of four days. Hence, he strongly opposes this petition.

6.Considering the submissions made and on perusal of the materials, it is seen that there was some discrepancy in the cause title of the remand order in Page No.167 of the booklet in which it is typed as though remand is by the learned Special Judge but in the signature column it is shown as Judicial Magistrate, Ambattur, this discrepancy cannot be brushed aside. Further, the detaining authority ought to have called for explanation, clarified and thereafter to have considered the document for arriving at the subjective satisfaction. It is seen that page No.3 of the booklet is illegible which denies the petitioner in making effective representation. Further, the delay of four days in considering the petitioner's representation not explained properly which is fatal and hence, the impugned detention order is unsustainable.

7.In the result, the Habeas Corpus Petition is allowed and the detention order dated 23.06.2022 bearing reference No.61/BCDFGISSSV/2022 is set



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aside and the detenu Prakash @ Suruttai Prakash, aged 26 years, son of

Baskaran is directed to set at liberty forthwith unless required in connection

with any other case. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)  
31.01.2023

Index:Yes

Neutral Citation : Yes/No

cse

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

To

- 1.The Secretary,  
Home, Prohibition & Excise Department,  
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police,  
Avadi City, Office of the Commissioner of Police,  
Avadi, Chennai – 600 054.
- 3.The Superintendent of Police,  
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- 5.The Public Prosecutor,  
Madras High Court, Chennai – 104.



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**M.SUNDAR, J.  
and  
M.NIRMAL KUMAR, J.**

*cse*

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