



H.C.P.No.1703 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.1703 of 2022

A.Janani

D/o.Annamalai

..

Petitioner

Vs.

1. The Secretary to the Government
Government of Tamil Nadu
(Home), Prohibition and Excise Department
Secretariat, Fort St.George
Chennai-600 009.
2. The District Collector and District Magistrate
Chengalpattu District,
Chengalpattu.
3. The Superintendent of Police
Chengalpattu District,
Chengalpattu.
4. The Inspector of Police
Prohibition Enforcement Wing,
Madhuranthagam,
Chengalpattu District.

Page Nos.1/8



H.C.P.No.1703 of 2022

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5. The Superintendent of Prison
Central Prison,
Puzhal, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records connected with the order of the 2nd respondent herein in CPT No.45/2022 dated 13.08.2022 passed against the petitioner's father the detenu namely ANNAMALAI, son of Balaraman, aged about 50 years as a "BOOTLEGGER" who is confined at Central Prison, Puzhal and set aside the same, consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set him at liberty forthwith.

For Petitioner	:	Mr.A.Murugavel
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.N.Narkeeran, Advocate

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 daughter of detenu assailing a 'preventive detention order dated 13.08.2022 bearing reference CPT No.45/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be



H.C.P.No.1703 of 2022

noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as 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 'Bootlegger' within the meaning of Section 2(b) of Act 14 of 1982.

3. There are two adverse cases and one ground case. The ground case which is the sole substratum of the impugned detention order is Crime No.538 of 2022 on the file of Madhuranthagam Prohibition Enforcement Wing for alleged offences under Sections 4(1)(aaa), 4(1-A) of the Tamil Nadu Prohibition Act, 1937 read with Rules 6 and 11 of the Tamil Nadu Rectified Spirit Rules, 2000. Owing to the nature of the challenge to the



H.C.P.No.1703 of 2022

impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.A.Murugavel, 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.125 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



H.C.P.No.1703 of 2022

booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

6. Be that as it may, we are informed that the literacy level of the detenu is 10th 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 detenu 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. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 13.08.2022 bearing reference CPT No.45/2022 made by the second respondent is set aside and the detenu Thiru.Annamalai, male, aged 50 years, son of Thiru.Balaraman is directed to be set at liberty



H.C.P.No.1703 of 2022

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

Speaking

Neutral Citation : Yes

mk

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

To

1. The Secretary to the Government
Government of Tamil Nadu
(Home), Prohibition and Excise Department
Secretariat, Fort St.George
Chennai-600 009.
2. The District Collector and District Magistrate
Chengalpattu District,
Chengalpattu.
3. The Superintendent of Police
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4. The Inspector of Police
Prohibition Enforcement Wing,
Madhuranthagam,
Chengalpattu District.
5. The Superintendent of Prison
Central Prison,
Puzhal, Chennai.
6. The Public Prosecutor
High Court, Madras.

Page Nos.7/8



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H.C.P.No.1703 of 2022

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

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H.C.P.No.1703 of 2022

20.03.2023

Page Nos.8/8