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HCP No.1761 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

Coram

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

H.C.P. No.1761 of 2022

Soundarya

... Petitioner(wife of detenu)

-VS-

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

2.The Commissioner of Police,
Tambaram City, Chennai.

3.The Superintendent of Police,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
S-15 Selaiyur Police Station,
Chennai.

... Respondents



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WEB COPY Habeas Corpus Petition filed under Article 226 of the Constitution of

India, to issue a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the second respondent dated 21.05.2022 in BCDFGISSSV No.89/2022 against the petitioner husband Thiru.Karthikeyan @ Donkey Karthik, male aged about 24 years son of Kannan, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner .. Mr.A.Venkateswara Babu

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

ORDER

[Order of the Court was made by M.SUNDAR, J.]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of convenience and brevity] has been filed in this Court on 30.08.2022 assailing an 'order of detention dated 21.05.2022 bearing reference BCDFGISSSV No.89/2022' [hereinafter 'impugned detention order' for the



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sake of convenience and clarity] made by the 'second respondent' [hereinafter 'detaining authority' for the sake of convenience and clarity].

Captioned HCP has been filed by the wife of the detenu.

2.Mr.A.Venkateswara Babu, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for all the respondents are before us.

3.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].

4.There are five adverse cases and one ground case. Suffice to say that the ground case is Crime No.199 of 2022 on the file of the S-15 Selaiyur Police Station for alleged offences under Sections 341, 294(b),



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392, 397, 336 and 506(ii) of the 'Indian Penal Code [45 of 1860]', which shall hereinafter be referred to as 'IPC' for the sake of brevity and convenience.

5.Captioned HCP turns on one short point and that one short point is qua the grounds of detention which has been served on the detenu in the form of a booklet [hereinafter 'grounds booklet' for the sake of convenience and clarity]. Remand extension order dated 06.05.2022 in the fifth adverse case, namely, Crime No.166 of 2022 on the file of S-15 Selaiyur Police Station for alleged offences under Section 379 IPC @ 392 IPC has been relied on by the detaining authority and the same is at Page No.149A of grounds booklet but Tamil translation of the same has not been provided. To be noted, what has been annexed in the next page is remand extension order in the ground case, i.e. Crime No.199 of 2022 on the file of the S-15 Selaiyur Police Station.

6.Learned Additional Public Prosecutor submitted that remand extension order in the fifth adverse case, namely, Crime No.166 of 2022 and



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Tamil translation of the same has been furnished. It is at Page Nos.151 and 153 of grounds booklet is his say but we find that to be remand extension order dated 20.05.2022. Therefore, the point that Tamil translation of remand extension order dated 06.05.2022 in the fifth adverse case has not been provided to the detenu is sustained.

7.Considering that it is a remand extension order, we have little difficulty [no difficulty] in persuading ourselves to believe that there is infraction of Constitutional guarantee of making effective representation ingrained in Clause (5) of Article 22 of the Constitution of India.

8.The above is good enough to dislodge the impugned detention order.

9.Before writing the concluding paragraph, we remind ourselves that that preventive detention is not a punishment and HCP is a high prerogative writ.



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10. Apropos, the sequitur is, captioned HCP is allowed and the detention order dated 21.05.2022 bearing reference BCDFGISSSV No.89/2022 made by the second respondent is set aside and the detenu Thiru.Karthikeyan @ Donkey Karthik, aged 24 years, son of Thiru.Kannan is directed to be 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.)
08.02.2023

Index: Yes/No

Neutral Citation : Yes/No

cse

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



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Chennai.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



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

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