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H.C.P.No.1791 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.1791 of 2022

Tmt.Sarawathi
Wife of Ramar

.. Petitioner/
Mother of detenu

Vs.

1. The Additional Chief Secretary to Government
Home, Prohibition & Excise Department
Secretariat
Chennai-600 009.
2. The Commissioner of Police, Greater Chennai
Office of the Commissioner of Police (Goondas Section)
Vepery, Chennai District
3. The Inspector of Police
R-9, Valasaravakkam Police Station
Chennai District
4. The Superintendent of Police
Central Prison, Puzhal, Chennai .. 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 in connection with the order of detention passed by the second respondent dated 03.08.2022 in B.C.D.F.G.I.S.S.S.V No.235 of 2022 against the petitioner's son muthupandi, son of Ramar, aged about 27 years, 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.Samson

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
Assisted by
Mr.N.Narkeeran

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 wife of detenu assailing a 'preventive detention order dated 03.08.2022 bearing reference 235/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, third 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 one adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.112 of 2022 on the file of R-9, Valasaravakkam Police Station for alleged offences under Sections 341, 294(b), 385, 397, 336 and 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity].

4. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.N.Narkeeran, advocate, for all respondents are before us.

5. The detaining authority was aware of the fact that the detenu did not move bail application in both the adverse case in Crime No.108 of 2022 and ground case in Crime No.112 of 2022 and in spite of the same, came to



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a conclusion that there is an imminent possibility of the detenu being let out on bail by relying upon an order passed in CrI.M.P.No.21605 of 2019 dated 18.10.2019 by the Principal Sessions Judge at Chennai.

6. Heard the submissions of learned State Additional Public Prosecutor.

7. We carefully went through the order passed in CrI.M.P.No.21605 of 2019. It is seen that there was no previous case against the accused therein and the same was taken into consideration along with the facts of the case and the accused therein was enlarged on bail. Whereas in the present case, there was one previous case against the detenu and one ground case. In both the cases, the detenu had not filed any bail application. Hence the order that was relied upon by the detaining authority cannot be considered as a similar case. *Ex consequenti*, the impugned detention order suffers from non-application of mind.

In the result, captioned HCP is allowed. Impugned detention order dated 03.08.2022 bearing reference Memo No.235/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Muthupandi, male, aged 27 years, son of Thiru.Ramar is directed to



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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

Speaking

Neutral Citation : Yes

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



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To

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

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