



WEB COPY



HCP No.1833 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.1833 of 2022

S.Ramar

... Petitioner(Father of detenu)

-VS-

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Tiruppur District,
Tiruppur.
- 3.The Superintendent of Police,
Tiruppur District,
Tiruppur.
- 4.The Superintendent of Prison,
Central Prison, Coimbatore.
- 5.The Inspector of Police,
Perumanallur Police Station,
Tiruppur District.

... Respondents



HCP No.1833 of 2022

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records in detention passed in Cr.M.P.No.24/Goonda/2022 dated 10.05.2022 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner son namely Eswaran son of Ramar male aged 38 years, who is detained in Central Prison, Coimbatore.

For Petitioner .. Mr.M.Dinesh

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

ORDER

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

This order has to be read in conjunction with and in continuation of our earlier proceedings in the previous listing in 06.02.2023 and the same is as follows:

'When the matter was taken up, it was submitted by Mr.R.Muniyapparaj, learned State Additional Public Prosecutor that three more habeas corpus petitions namely, HCP Nos.1550 of 2022, 975 of 2022 and 952 of 2022 pertain to co-accused in ground case are pending.

2. Learned counsel for petitioner submits that there is



one more co-accused in the ground case and detention order against that co-accused has been set aside by this Court in and by order dated 13.12.2022 in HCP No.1076 of 2022.

3. Registry to tag the aforementioned three habeas corpus petitions along with the captioned HCP and list all four matters together day-after-tomorrow.

4. List on 08.02.2023.'

2.Adverting to the earlier proceedings [which is now an integral part and parcel of this order] we are informed that only H.C.P.No.1550 of 2022 is pending and the other two Habeas Corpus Petitions [H.CP.No.975 of 2022 and H.C.P.No.952 of 2022] have since been disposed of.

3.However, H.C.P.No.1550 of 2022 has been tagged and listed together but the counsel for petitioner therein requested for an adjournment and therefore we are detagging and making a separate order in H.C.P.No.1550 of 2022.

4.As regards the captioned 'Habeas Corpus Petition' ['HCP' for the sake of convenience and brevity] 'a detention order dated 10.05.2022



HCP No.1833 of 2022

bearing reference Cr.M.P.No.24/GOONDA/2022' [hereinafter referred as 'impugned detention order' for the sake of convenience and clarity] made by the 'second respondent' [hereinafter referred as 'detaining authority' for the sake of convenience and clarity] has been assailed. To be noted, captioned HCP has been filed by the father of the detenu.

5.The impugned detention order has been made by the detaining authority on the premise that 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].

6.As already captured in the previous proceedings made in the previous listing on 06.02.2023, a preventive detention was clamped on one of the co-accused in the ground case and that detention order was set aside by an order dated 13.12.2022 in H.C.P.No.1076 of 2022 made by Hon'ble Predecessor Bench.



HCP No.1833 of 2022

WEB COPY

7.Be that as it may, captioned HCP turns on a short point. The arrest intimation form in the ground case is at Page No.81 of the grounds of detention served on the detenu in the form of a booklet [hereinafter referred as 'grounds booklet' for the sake of convenience and clarity]. The literacy level of the detenu is not very high and the detenu is conversant only with Tamil is the undisputed obtaining position. Tamil translation of the arrest intimation form dated 03.04.2022 has not been correctly translated, particularly, Sl.No.12, which talks about information about arrest intimation to relative has not been correctly translated. To be noted, we had the benefit of perusing the grounds booklet as served on the detenu.

8.We have little difficulty [no difficulty] in persuading ourselves to believe that the aforementioned incorrect translation has caused infraction of Constitutional guarantee ingrained in Clause (5) of Article 22 of the Constitution of India and has thereby hampered the detenu's Constitutional right to make an effective representation.



HCP No.1833 of 2022

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

10.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 10.05.2022 bearing reference Cr.M.P.No.24/GOONDA/2022 made by the second respondent is set aside and the detenu Thiru.Eswaran, aged 38 years, son of Mr.Ramar 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

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



HCP No.1833 of 2022

WEB COPY To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Tiruppur District,
Tiruppur.
- 3.The Superintendent of Police,
Tiruppur District,
Tiruppur.
- 4.The Superintendent of Prison,
Central Prison, Coimbatore.
- 5.The Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
- 6.The Public Prosecutor,
High Court of Madras,
Chennai - 104.



WEB COPY



HCP No.1833 of 2022

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

cse

H.C.P.No.1833 of 2022

08.02.2023