



WEB COPY



H.C.P.No.1840 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.1840 of 2022

V.RAMYA,
W/o. Ajithkumar

.. Petitioner

Vs.

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Inspector of police,
Azhaapuram Police Station,
Salem City.

..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 in Connection with

Page Nos.1/6



H.C.P.No.1840 of 2022

the order of Detention passed by the second respondent 06.09.2022 in C.M.P.No105/Goonda/Salem City/2022 against the petitioner's husband Ajithkumar, Male aged 26 years S/o Kumar who is confined at Central Prison Salem, and set aside the same and direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner : Mr.D.Balaji
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John, Advocate

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 by wife of the detenu assailing a 'preventive detention order dated 06.09.2022 bearing reference C.M.P.No.105/Goonda/Salem City/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as the 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,



H.C.P.No.1840 of 2022

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 are two adverse cases and one ground case. The ground case which is the sole substratum of the impugned detention order is Crime No.521 of 2022 on the file of Azhagapuram Police Station for alleged offences under Sections 294(b), 323, 324, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. Owing to the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix or be detained further by facts.

4. Mr.D.Balaji, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor, assisted by Mr.M.Sylvester John, learned counsel for all respondents are before us.



H.C.P.No.1840 of 2022

5. Though several points have been raised in the support affidavit of the captioned HCP, Mr.D.Balaji, learned counsel on record for petitioner in the hearing today, predicated his argument on one point and that one point is, the arrest information has not been informed to the relatives of the detenu. In this regard, learned counsel for petitioner drew our attention to page No.32 of booklet which is arrest intimation form.

6. On a perusal of the arrest intimation form, it is seen that in the arrest intimation form it has been recorded that arrest pertaining to the detenu in Crime No.521 of 2022 has been informed to his wife Ramya and one B.Maheswari has signed in the witness column. The Sponsoring Authority had not given any reason for the same and the Detaining Authority had also not clarified and hence, the subjective satisfaction arrived at by the Detaining Authority is flawed / impaired. We have no difficulty in coming to the conclusion that the impugned detention order deserves to be dislodged.

7. Before concluding, we also remind ourselves that preventive detention is not a punishment and HCP is a high prerogative writ.

Page Nos.4/6



H.C.P.No.1840 of 2022

WEB COPY

8. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 06.09.2022 bearing reference C.M.P.No.105/Goonda/Salem City/2022 made by the second respondent is set aside and the detenu Thiru.Ajithkumar, aged 26 years, son of Thiru.Kumar, is directed to 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.)

(M.N.K.,J.)

03.04.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mk

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



WEB COPY



H.C.P.No.1840 of 2022

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

mk

To

1. The Secretary to the Government,
Home Prohibition and Excise Dept.,
Secretariat, Chennai 600 009.
2. The Commissioner of Police,
Salem City.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Inspector of police,
Azhagapuram Police Station,
Salem City.
5. The Public Prosecutor
High Court, Madras.

H.C.P.No.1840 of 2022

03.04.2023

Page Nos.6/6