



H.C.P.No.1871 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.1871 of 2022

Mr.Manikandan
S/o.Jayavel

..

Petitioner/
Brother of the detenu

Vs.

1. The Secretary to the Government
Home, Prohibition & Excise (XVI) Dept.,
Fort St.George, Secretariat
Chennai – 600 009
2. The Commissioner of Police/Detaining Authority
Office of the Commissioner of Police
Coimbatore City
3. The Superintendent of Police
Central Prison at Coimbatore
Coimbatore – 18
4. The Inspector of Police
D-4, Kuniyamuthur Police Station
Coimbatore District

..

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 detention order in C.No.53/G/IS/2022 dated 23.08.2022 on the file of the 2nd respondent and set aside the same and direct the respondents herein to produce the body of the detenu J.Sudhirkumar @ Sudhir, son of Jeyavel, aged 29 years, confined in Central Prison at Coimbatore before this Court and set him at liberty.

For Petitioner : Ms.R.Subadra Devi

For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

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 brother of detenu assailing a 'preventive detention order dated 23.08.2022 bearing reference C.No.53/G/IS/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 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 are three adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.308 of 2022 on the file of D-4, Kuniyamuthur Police Station for alleged offences under Sections 341, 294(b), 387 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. Ms.R.Subadra Devi, 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.



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5. The main ground that was urged by learned counsel for petitioner is that the detaining authority after being aware of the fact that the bail application filed by the detenu was dismissed on 27.07.2022, came to the conclusion that there is likelihood of the detenu being let out on bail by relying upon the order passed in C.M.P.No.10397 of 2021 by the Judicial Magistrate VII, Coimbatore dated 30.03.2021. Learned counsel submitted that the order that was relied upon by the detaining authority does not pertain to a similar case. Hence the impugned detention order suffers from non-application of mind.

6. Heard the submissions of Mr.R.Muniyapparaj, learned State Additional Public Prosecutor.

7. The detenu was arrested in the course of investigation in Crime No.308 of 2022 for offences under Sections 341, 294(b), 387 and 506(ii) IPC. The bail application filed by the detenu was also dismissed and the same has been taken note by the detaining authority. However, the detaining authority came to the conclusion that there is an imminent possibility of the detenu being let out on bail by relying upon on an order passed in C.M.P.No.10397 of 2021.



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8. We carefully went through the order passed in C.M.P.No.10397 of 2021, the accused therein were released on bail based on the compromise entered into between the defacto complainant and the accused.

9. In view of the same, the order that was relied upon by the detaining authority cannot be considered as a similar case and *ex consequenti* the impugned order suffers from non-application of mind.

10. In the result, captioned HCP is allowed. Impugned detention order dated 23.08.2022 bearing reference C.No.53/G/IS/2022 made by the second respondent is set aside and the detenu J.Sudhirkumar @ Sudhir, male, aged 29 years, son of Thiru. Jayavel is directed to be set at liberty forthwith, if not required in connection with any other case / cases.

(M.S.,J.)

(N.A.V.,J.)

20.03.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

gpa

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

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To

WEB COPY

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High Court, Madras.



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and
N.ANAND VENKATESH.,

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