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H.C.P.No.1890 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR**  
and

**THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

H.C.P.No.1890 of 2022

Singaram  
S/o.Mangu

.. Petitioner/Father of detenu

Vs.

1. The Secretary to the Government  
Home, Prohibition and Excise Department  
Secretariat,  
Chennai-600 009.
2. The District Collector and District Magistrate of  
Tiruvannamalai District,  
Tiruvannamalai.
3. The Superintendent of Police,  
Tiruvannamalai District,  
Tiruvannamalai.
4. The Superintendent of Prison,  
Special Prison for Women, Vellore
5. The Inspector of Police,  
Veraiyur Police Station,  
Tiruvannamalai District.

.. Respondents



H.C.P.No.1890 of 2022

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 06.09.2022 in D.O.No.78/2022-C2 against the petitioner's daughter Suganya, female aged 28 years W/o.Boopalan, who is confined at Special Prison for Women, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.R.Muniyapparaj  
Additional Public Prosecutor  
assisted by  
Mr.N.Narkeeran, Advocate

### **ORDER**

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by father of detenu assailing a 'preventive detention order dated 06.09.2022 bearing reference D.O.No.78/2022-C2' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fifth respondent is the sponsoring authority and second respondent is the detaining authority as impugned detention order has been made by second respondent.



*H.C.P.No.1890 of 2022*

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 no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.232 of 2022 on the file of Veraiyur Police Station for alleged offence under Section 302 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.1890 of 2022*

5. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument qua challenge to the impugned detention order on one point and that point is not providing correct translated copy of documents (relied on by the detaining authority) in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to page Nos.76 and 77 of the booklet which are (i) Remand Order dated 09.08.2022 made by jurisdictional Judicial Magistrate No.I, Tiruvannamalai and (ii) Remand Extension Order dated 23.08.2022, respectively. No Tamil translation of these documents have been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that Remand Order and Remand Extension Order form part of the ground on which the impugned detention order has been made. As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

6. Be that as it may, we are informed that the literacy level of the detenu is 8<sup>th</sup> standard in school and she is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind ourselves



H.C.P.No.1890 of 2022

of Powanammal case i.e., ***Powanammal Vs. State of Tamil Nadu***, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, Powanammal case is reported in ***(1999) 2 SCC 413*** and paragraphs 6 and 16 {as in SCC journal} read as follows:

*'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.*

*16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '*

7. We find that the aforementioned ***Powanammal*** case applies in all fours to the case on hand as we find that remand order and remand extension order which have been relied on as part of the grounds of detention



H.C.P.No.1890 of 2022

qua impugned detention order are crucial documents and not furnishing the same in Tamil the lone language known to the detenu has impaired her constitutional right to make an effective representation of the impugned detention order. We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 06.09.2022 bearing reference D.O.No.78/2022-C2 made by the second respondent is set aside and the detenu Tmt.Suganya, female, aged 28 years, Wife of Thiru.Boopalan 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.)

28.03.2023

Index : Yes / No

Speaking / Non speaking order

Neutral Citation : Yes / No

rsi

**P.S: Registry to forthwith communicate this order to Jail authorities in Special Prison for Women, Vellore.**



H.C.P.No.1890 of 2022

To

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6. The Public Prosecutor,  
High Court, Madras.



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*H.C.P.No.1890 of 2022*

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

rsi

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