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H.C.P.No.2021 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

H.C.P.No.2021 of 2022

S.Murugan
S/o.Srinivasan

.. Petitioner

Vs.

1. The State of Tamil Nadu
Represented by Secretary to Government
Prohibition and Excise Department
Fort St.George
Chennai-600 009.
2. The Commissioner of Police
Salem City,
Line Medu,
Salem - 636 006.
3. The Superintendent of Prison
Central Prison
Salem - 636 007.
4. The Inspector of Police
Pallapatty Police Station
Salem City - 636 004.

.. 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 relating to the detention order dated 08.08.2022 passed by the second respondent in C.M.P.No.85/GOONDA/SALEM CITY/2022 and quash the same and direct the respondents herein to produce the petitioner's son namely, Yogeswaran @ Rotti, son of Murugan aged about 26 years, Chinna Ammapet, Mannarpalayam Pirivu Road, Ponnammampet, Salem who is presently under going detention in the Central Prison, Salem, under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) before this Hon'ble Court and set him at liberty forthwith.

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

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 father of detenu assailing a 'preventive detention order dated 08.08.2022 bearing reference C.M.P.No.85/Goonda/Salem City/2022'

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[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, 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 and one ground case. The ground case which is the sole substratum of the impugned detention order is Crime No.343 of 2022 on the file of Pallapatty Police Station for the alleged offences under Sections 341, 294(b), 392 read with 397 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of



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Arrest Intimation Form that the arrest information was sent to the father of the detenu namely, Murugan. There is also mention of mobile number to which SMS is said to have been sent after the arrest of the detenu. There is absolutely no material to show that the mobile number that has been mentioned in the Arrest Intimation Form belongs to the father of the detenu. That apart, the signature of the father of the detenu is also not found in the witness column. In view of the same, there is absolutely no material before the Detaining Authority to establish that the arrest of the detenu was intimated to the near relatives. On this ground alone, the impugned detention order is liable to be interfered with by this Court.

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

8. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 08.08.2022 bearing reference C.M.P.No.85/Goonda/Salem City/2022 made by the second respondent is set aside and the detenu Mr.Yogeswaran @ Rotti, aged 26 years, son of



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Mr.Murugan, 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.)

(N.A.V.,J.)

23.03.2023

Index : Yes

Speaking

Neutral Citation : Yes

mk

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

To

1. The State of Tamil Nadu
Represented by Secretary to Government
Prohibition and Excise Department
Fort St.George, Chennai-600 009.
2. The Commissioner of Police
Salem City, Line Medu,
Salem - 636 006.
3. The Superintendent of Prison
Central Prison
Salem - 636 007.
4. The Inspector of Police
Pallapatty Police Station
Salem City - 636 004.
5. The Public Prosecutor
High Court, Madras.

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

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