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HCP No.1935 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.1935 of 2022

Sathya
W/o.Pon Ravi

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Home, Prohibition & Excise Department,
Chennai - 9.

2.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai.

3.The Superintendent,
Central Prison,
Puzhal, Chennai - 66.

4.The Inspector of Police,
Team 37, EFD-II,
Central Crime Branch - II,
Egmore, Chennai.

... 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



HCP No.1935 of 2022

with the order of detention passed by the second respondent dated 30.08.2022 in No.265/BCDFGISSSV/2022, against the petitioner's husband Pon Ravi, male, aged about 35 years S/o.Gunavel, who is confined at Central Prison, Puzhal, Chennai - 66 and set aside the same and consequently direct the respondents to produce the detinue before this Court and set him at liberty.

For Petitioner : Mr.R.C.Paul Kanagaraj
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed assailing a 'detention order dated 30.08.2022 bearing reference No.265/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of brevity and convenience] made by the 'second respondent' [hereinafter 'detaining authority' for the sake of convenience and clarity]. To be noted the fourth respondent is the Sponsoring Authority.

2.Mr.R.C.Paul Kanagaraj, learned counsel for petitioner who is before us submits that a co-accused in the ground case [Mr.Gunavel] was also



HCP No.1935 of 2022

clamped with a similar preventive detention order and the same was set aside by this Court in and by order dated 23.02.2023 in H.C.P.No.2003 of 2022. To be noted, there is no disputation about this aspect of the matter.

3.Be that as it may, notwithstanding very many averments in the HCP affidavit, learned counsel for petitioner points out that the petitioner moved a bail petition in CrI.M.P.No.24931 of 2022 on the file of Court of Special Metropolitan Magistrate for the exclusive trial of CCB Cases [relating to cheating cases in Chennai] and CBCID Metro Cases, Egmore, Chennai in the ground case and the same came to be dismissed by the Trial Court in and by an order dated 26.08.2022. This order has been made by the learned Trial Judge in English and a copy of the same has been annexed to the grounds of detention which was served to the detenu in the form of a booklet [hereinafter 'said booklet' for the sake of convenience] at Page No.543. Learned counsel for petitioner submits that while it is a three page order, only two pages [first two pages] have been provided and the third page which contains the operative portion has not been provided. It is pointed out that Tamil translation contains the all too crucial third page. Learned counsel also points out that this bail petition was dismissed on



HCP No.1935 of 2022

26.08.2022 itself but the impugned detention order that was made on 30.08.2022 [paragraph 4] proceeds on the basis that this bail application is pending and this has impelled the detaining authority to arrive at the subjective satisfaction qua the imminent possibility of the detenu being enlarged on bail.

5. In response to the above submission, learned Additional Public Prosecutor submitted the literacy level of the detenu is fairly high and he can understand English. This argument does not impress us as it is not a question of understanding English and it is a question of providing an incomplete document [crucial page containing operative portion missing] in the said booklet. To be noted, the most crucial page of the bail order, particularly, the operative portion which says that the bail petition has been dismissed is missing. Therefore, the argument that the Tamil translation contains the same is of no avail. Furthermore, the argument that the impugned detention order proceeds on the basis that the bail petition is pending [to be noted the impugned detention order has been made on 30.08.2022] whereas the bail petition was dismissed on 26.08.2022 itself also weighs with us. In this regard, there is not much say for the learned



HCP No.1935 of 2022

Additional Public Prosecutor as these are matters of record. Therefore, subjective satisfaction of the detaining authority qua imminent possibility of detenu being enlarged on bail is also impaired.

6.As the aforementioned two points weigh with us, we have no hesitation in saying that the impugned detention order deserves to be set aside.

7.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 30.08.2022 bearing reference No.265/BCDFGISSV/2022 made by the second respondent is set aside and the detenu Thiru.Pon Ravi, aged 35 years, son of Thiru.Gunavel 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.)
27.02.2023

Index:Yes/No

Neutral Citation : Yes/No

cse

Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai



HCP No.1935 of 2022

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HCP No.1935 of 2022

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

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