



H.C.P.No.1972 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.1972 of 2022**

Kasthuri  
W/o.Dhandapani

.. Petitioner

Vs.

1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai – 600 009.

2.The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police (Goondas Section),  
Vepery, Chennai – 600 007.

3.The Superintendent of Police,  
Central Prison – II, Puzhal,  
Chennai – 600 066.

4.The Inspector of Police,  
K-8, Arumbakkam Police Station,  
Chennai – 600 106.

.. 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 entire records connected with the detention order of the second respondent in No.243/BCDFGISSSV/2022 dated 04.08.2022 and quash the same and direct the respondents to produce the body and person of detenu namely Saravanan @ Kurangu Saravanan, S/o Dhandapani aged 27 years detained in Central Prison, Puzhal, Chennai

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

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### **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 mother of detenu assailing a 'preventive detention order dated 04.08.2022 bearing reference 243/BCDFGISSSV/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.



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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 five adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.273 of 2022 on the file of K-8 Arumbakkam Police Station for the alleged offences under Sections 341, 294(b), 336, 397 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity].

4. Mr.B.M.Santharam, 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.



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5. Notwithstanding very many averments and grounds raised in the support affidavit, Mr.B.M.Santharam, learned counsel on record for petitioner in the hearing predicated his campaign against the impugned detention order on one point and that one point turns on subjective satisfaction of disciplinary authority *qua* imminent possibility of the detenu being enlarged on bail.

6. Elaborating on the above point, it was pointed out that the ground case in Crime No.273 of 2022 on the file of K-8 Arumbakkam Police Station has been registered for alleged offences under Sections 341, 294(b), 336, 397 and 506(ii) IPC and the disciplinary authority has relied on an order dated 30.05.2018 made in CrI.M.P.No.8231 of 2018 on the file of XV Additional Sessions Judge/Vacation Sessions Judge at Chennai in the case of Gokul @ Gokulnath and Araichi @ Sathish Kumar. Learned counsel submitted that Gokul @ Gokulnath and another case is not a similar case. To substantiate his submission that it is dissimilar, it was pointed out that it was a case where there were only two adverse cases as against first petitioner [A2 in that case] and no adverse case against second petitioner



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[A3 in that case]. In the case on hand, we find that there are five adverse cases *qua* the detenu as regards the impugned preventive detention order.

7. We carefully perused the order of learned Sessions Judge. We also find that in that case bail has been granted *inter alia* on the ground that the learned City Public Prosecutor has stated that he has no serious objection for grant of bail. This is captured in paragraph 4 of the order of learned Sessions Judge. Therefore, this is another reason to say that the case is really dissimilar. This means that the subjective satisfaction arrived at by the disciplinary authority *qua* imminent possibility of the detenu being enlarged on bail is clearly impaired. This further means that the impugned detention order deserves to be interfered with and dislodged.

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

Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 04.08.2022 bearing reference



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243/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Saravanan @ Kurangu Saravanan, aged 27 years, son of Thiru.Dhandapani 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.]  
23.03.2023

Index : Yes  
Speaking Order  
Neutral Citation : Yes  
gm

**P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai – 600 066.**

To

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat,  
Chennai – 600 009.
- 2.The Commissioner of Police,  
Greater Chennai,  
Office of the Commissioner of Police (Goondas Section),  
Vepery, Chennai – 600 007.
- 3.The Superintendent of Prison,  
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**M.SUNDAR, J.**  
and  
**N.ANAND VENKATESH, J.**

gm

4.The Inspector of Police,  
K-8, Arumbakkam Police Station,  
Chennai – 600 106.

5.The Public Prosecutor  
High Court, Madras.

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