



WEB COPY



H.C.P.No.2028 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.2028 of 2022

Anjali
W/o.Settu

... Petitioner /
Mother of the detenu

Vs

1. The State of Tamilnadu
Rep. by the Principal Secretary to Government
Home, Prohibition and Excise Department
Chennai – 600 009
2. The Commissioner of Police
Tambaram City
Office of the Commissioner of Police
(Goondas Section)
Sholinganallur, Chennai 600 119
3. The Superintendent of Police
Central Prison, Puzhal, Chennai – 600 066
4. The Inspector of Police
H-3, Maraimalai Nagar Police Station
Maraimalai Nagar, Chengalpattu District – 603 209 .. Respondents

Page Nos.1/11



H.C.P.No.2028 of 2022

WEB COPY 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 vide Memo BCDFGISSSV No.96/2022 dated 27.06.2022 passed by the second respondent and quash the same and direct the respondents herein to produce my son, namely Chinna Thambi @ Alot, son of Settu, aged 21 years (who is presently undergoing detention in the Central Prison, Puzhal) before this Court and set him at liberty.

For Petitioner	:	Mr.S.Selvakumar for Mr.S.N.Arun Kumar
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 mother of detenu assailing a 'preventive detention order dated 27.06.2022 bearing reference BCDFGISSSV No.96 of 2022 [hereinafter

Page Nos.2/11



H.C.P.No.2028 of 2022

'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.

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.268 of 2022 on the file of Maraimalai Nagar Police Station, for offences Sections 341, 294(b), 386, 392, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. Owing to the



H.C.P.No.2028 of 2022

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.S.Selvakumar, learned counsel representing the counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.N.Narkeeran for all respondents are before us.

5. Both sides submit that a co-accused in the ground case was also clamped with a preventive detention order which is akin to the impugned preventive detention order, co-accused assailed the same by way of H.C.P.No.1499 of 2022 and the same came to be allowed by this Court in and by an order dated 02.03.2023. A scanned reproduction of the order is as follows:



WEB COPY



WEB COPY



H.C.P.No.2028 of 2022



H.C.P.No.1499 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

Coram

THE HON'BLE MR. JUSTICE M.SUNDAR
and
THE HON'BLE MR. JUSTICE MNIRMAL KUMAR

H.C.P.No.1499 of 2022

Mrs.Ezhilarasi
W/o.Murugan

... Petitioner/mother of the detenu

-Vs-

- 1.The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort St. George, Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Office of the Commissioner of Police,
Tambaram City.
- 3.The Superintendent of Prison,
Central Prison, Puzhal – II,
Chennai District 600 066.
- 4.The Inspector of Police,
Maraimalai Nagar Police Station, Chennai.

... Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records in Detention order in B.C.D.F.G.I.S.S.S.V.No.97/2022 dated 27.06.2022 on the file of the 1st respondent and set aside the same and direct the respondents herein to produce the body of the petitioner's son detenu Jagadeesan @ Jagan, S/o Murugan aged 22 years now confined in Central Prison at Puzhal-II before



WEB COPY



H.C.P.No.2028 of 2022



WEB COPY



H.C.P.No.1994 of 2022

this Hon'ble Court and set him at liberty.

For Petitioner
For Respondents

Mr.M Mahamed Sairulla
Mr.R Munayappan
Additional Public Prosecutor
assisted by
Mr.M Sylvester John

♦♦♦♦♦

ORDER

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

Captioned Habeas Corpus Petition (HCP for the sake of brevity) has been filed by mother of detainee assailing a 'preventive detention order' dated 27.06.2022 bearing reference HCHFGIS38V No.97/2022 (hereinafter 'impugned detention order' for the sake of convenience). To be noted, fourth respondent is the Sponsoring Authority.

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 Vandal 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 detainee is a 'Goonda' within the meaning of Section 2(i) of Act 14 of 1982.

Page Nos. 6/11



WEB COPY



H.C.P.No.2028 of 2022



WEB COPY



H.C.P.No.1499 of 2022

3. There are four adverse cases and one ground case. The ground case which is the substratum of the impugned detention order is Crime No.268/2022 on the file of Maraimalai Nagar Police Station for alleged offences under Sections 341, 294(b), 386, 392, 307, 506(ii) of Indian Penal Code, 1860 (Act 45 of 1860) [IPC] for brevity]. 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.M.Mohamed Saifulla, learned counsel for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr.M.Sylvester John for all four respondents are before us.

5. Mr.M.Mohamed Saifulla, learned counsel for petitioner notwithstanding very many averments/grounds in the support affidavit, adverting to paragraph 3 of the impugned detention order submits that subjective satisfaction of the detaining authority regarding imminent possibility of the detenu being enlarged on bail is not supported by adequate material.

6. Responding to the above arguments learned Additional Public Prosecutor drew our attention to a special report. We find that this special report is undated but it is at pages 407 & 409 of booklet/grounds of detention.

<https://www.mhc.tn.gov.in/judis>



WEB COPY



WEB COPY



H.C.P.No.2028 of 2022



H.C.P.No.1499 of 2022

7. A careful perusal of the same reveals that even according to the special report one Thiru.Chinnathambi @ Alattu is taking steps to move bail application. We are informed that this Thiru.Chinnathambi @ Alattu is a co-accused. Therefore, there is no difficulty in accepting the submission of learned counsel for the petitioner that subjective satisfaction is not based on any material much less tenable material. Therefore, we find no difficulty in persuading ourselves to say that the impugned detention order deserves to be set aside.

8. Ergo, the sequitur is, H.C.P. No.1499 of 2022 is allowed, impugned detention order dated 27.06.2022 bearing reference BCDFGISSSV No.97/2022 made by the second respondent is set aside and detenu Mr.Jagadeesan @ Jagan, male, aged 22 years, son of Mr.Murugan, now detained in Central Prison, Puzhal-II, Chennai is directed to be set at liberty forthwith unless required in connection with any other case/s.

(M.S.J.) (M.N.K.,J.)
02.03.2023

Speaking / Non-speaking
Neutral Citation : Yes / No
kmi

P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison-II, Puzhal, Chennai.

<https://www.mhc.tn.gov.in/judis>



H.C.P.No.2028 of 2022

6. We are informed that the same ground on which the aforementioned HCP was allowed is available to the petitioner/detenu in the captioned matter also. The only difference is, Arrest Intimation Form which has not been translated is at Page 223 of said booklet and the literacy level of the detenu is VI Standard and we are informed that detenu is a school drop out. We reminded of the age old adage 'sauce to goose is sauce to gander too'. The sequitur is, impugned detention order in the captioned HCP is also deserves to be set aside.

7. Ergo, captioned HCP is allowed. Impugned detention order dated 27.06.2022 bearing reference BCDFGISSSV No.96 of 2022 made by the second respondent is set aside and the detenu Thiru.Chinna Thambi @ Alot, male aged 21 years, son of Thiru.Settu, 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.)

20.03.2023

Index : Yes

Neutral Citation : Yes

gpa

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

Page Nos.9/11



H.C.P.No.2028 of 2022

To
WEB COPY

1. The Principal Secretary to Government
State of Tamil Nadu
Home, Prohibition and Excise Department
Chennai – 600 009
2. The Commissioner of Police
Tambaram City
Office of the Commissioner of Police
(Goondas Section)
Sholinganallur, Chennai 600 119
3. The Superintendent of Police
Central Prison, Puzhal, Chennai – 600 066
4. The Inspector of Police
H-3, Maraimalai Nagar Police Station
Maraimalai Nagar, Chengalpattu District – 603 209
5. The Public Prosecutor
Madras High Court
Chennai



WEB COPY



H.C.P.No.2028 of 2022

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

gpa

H.C.P.No.2028 of 2022

20.03.2023

Page Nos.11/11