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H.C.P.No.1991 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

H.C.P.No.1991 of 2022

Geetha

.. Petitioner

Vs

1.State of Tamil Nadu

Rep. By The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.

2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai – 600 007.

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

4.The Inspector of Police,
D-2, Anna Salai Police Station,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of habeas corpus calling for the records

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relating to the detention order in Memo No.257/BCDFGISSSV/2022, dated 26.08.2022 passed by the 2nd respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Suresh, S/o.Balan, aged about 30 years the detenu, now confined in Central Prison, Puzhal, Chennai before this Court and set the petitioner's son Suresh, S/o.Balan, aged about 30 years the detenu herein at liberty.

For Petitioner	:	Mr.S.Senthilvel for Mr.J.Balamurugan
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.M.Sylvester John

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 26.08.2022 bearing reference BCDFGISSSV No.257/2022' [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 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 two adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.168 of 2022 on the file of D-2 Anna Salai Police Station for alleged offences under Sections 392, 397 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity], subsequently altered into one under Sections 395 and 397 of IPC. 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.



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4. Mr.S.Senthilvel, learned counsel representing 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.

5. Though several grounds have been raised in the support affidavit, learned counsel for petitioner in the arguments at the time of hearing pivoted his campaign against the impugned detention order on one point and that one point turns on incorrect/improper translation. Learned counsel adverting to pages 231 and 232 of the booklet submits that the remand order dated 25.07.2022 has not been correctly translated while the remand order in English by the learned Magistrate says '*Copy of arrest memo served*', in Tamil translation, there is no mention about the same. 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 8th standard in school and he is a school drop out. We are



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also informed that the detenu is conversant only with Tamil. We remind ourselves of *Powanammal* case which also on facts arose out of the preventive detention case. In *Powanammal* case in similar circumstances i.e., similar fact situation, Honourable Supreme Court addressed to itself the issue of providing a detenu with translated copies in a language in which the detenu is conversant with and answered the same interalia by saying that it is imperative and not providing translated copy in a language which the detenu is conversant with vitiates preventive detention. *Powanammal* case i.e., **Powanammal Vs. State of Tamil Nadu** is reported in **(1999) 2 SCC 413** and the relevant paragraphs wherein the question which the Honourable Supreme Court addressed to itself and the manner in which the question was answered are paragraphs 6 and 16 which 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 detenu, 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



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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. Applying *Powanammal* principle, we have no hesitation in saying that the impugned detention order in the case on hand deserves to be dislodged.

8. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 26.08.2022 bearing reference BCDFGISSSV No.257/2022 made by the second respondent is set aside and the detenu Thiru.Suresh, male, aged 30 years, son of Thiru.Balan 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.) (D.N.R.,J.)
06.04.2023

Index : Yes / No
Neutral Citation : Yes / No
mmi

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



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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai – 600 007.
- 3.The Superintendent of Police,
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- 5.The Public Prosecutor
High Court, Madras.



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**M.SUNDAR, J.,
and
Dr.D.NAGARJUN , J.,**

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