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H.C.P.No.2038 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**  
and  
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

**H.C.P.No.2038 of 2022**

Magendiran

.. Petitioner

Vs

1. The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai -9.
2. District Collector and District Magistrate,  
Tirupathur District, Tirupathur – 635 601.
- 3.The Superintendent of Police,  
Tirupathur District, Tirupathur.
- 4.The Superintendent of Prison,  
Central Prison, Vellore -2.
- 5.The Inspector of Police,  
Kandili Police Station,  
Tirupathur District.

.. Respondents

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 in connection with the order of detention passed by the second respondent dated 10.09.2022 in C3/D.O.No.50/2022 petitioner/detenu Magendiran, male, aged 21 years, S/o.Madhavan,

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who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Ms.Sathiya  
for Mr.D.Balaji

For Respondents : Mr.E.Raj Thilak,  
Additional Public Prosecutor

**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 the detenu assailing a 'preventive detention order dated 10.09.2022 bearing reference C3/D.O. No.50/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fifth 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



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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. The ground case which is the sole substratum of the impugned detention order is Crime No.192 of 2022 on the file of Kandili Police Station under Section 174 of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'CrPC' for the sake of brevity and clarity] subsequently altered into one under Sections 341, 376, 302 and 201 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. 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. Ms.Sathiya, learned counsel representing counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.



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5. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument in his challenge against the impugned detention order on one point and that point is not providing translated copy of a document relied on by the detaining authority in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to pages 85 and 86 of the booklet which is the post mortem certificate dated 26.07.2022. No Tamil translation of this document has been furnished to the detenu.

6. As this turns on obtaining facts which are before us learned State Additional Public Prosecutor does not have much of a say.

7. Be that as it may we are informed that the literacy level of the detenu is 9<sup>th</sup> standard in school and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**. The question which the Honourable Bench of



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the Supreme Court addressed itself to in a similar fact situation is captured in paragraph 6 and the manner in which a Honourable Bench of the Supreme Court answered this question is captured in paragraph 16. To be noted, Powanammal case is reported in **(1999) 2 SCC 413** and paragraphs 6 and 16 {as in SCC journal} 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 detenue, 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 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. '*

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

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 10.09.2022 bearing reference



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C3/D.O. No.50/2022 made by the second respondent is set aside and the detenu Thiru.Magendiran, male, aged 21 years, son of Thiru.Madhavan 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.) (M.N.K.,J.)  
24.04.2023

Index : Yes  
Neutral Citation : Yes  
mmi

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

To

1. The Secretary to the Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai -9.
2. District Collector and District Magistrate,  
Tirupathur District, Tirupathur – 635 601.
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- 5.The Inspector of Police,  
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Tirupathur District.
- 6.The Public Prosecutor,

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High Court, Madras.

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and  
M.NIRMAL KUMAR, J.,**

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