



HCP Nos.2147, 2167, 2225 and 2299 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 01.02.2023

Coram

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

H.C.P. Nos.2147, 2167, 2225 and 2299 of 2022

H.C.P.No.2147 of 2022

Mohammed Badrul
S/o.Jahangir

... Petitioner(Detenu)

-VS-

1.State of Tamil Nadu represented
By Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner of Police,
Tiruppur.

3.The Superintendent,
Central Prison Coimbatore,
Coimbatore.

4.State rep. by Inspector of Police,
Tiruppur North Police Station,
Tiruppur.

... Respondents



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Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the second respondent, pertaining to the order made in C.No.25/G/IS/TIRUPPUR CITY/2022 dated 08.04.2022 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Goondas and quash the same and direct the respondents to produce the detenu, namely, Mohammed Badrul, aged 25 years son of Jahangir who is detained at the Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner	..	Mr.J.Franklin
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor

H.C.P.No.2167 of 2022

Dilkash
S/o.Midarif

... Petitioner(Detenu)

-vs-

- 1.State of Tamil Nadu represented
By Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police,
Tiruppur.
- 3.The Superintendent,
Central Prison Coimbatore,
Coimbatore.



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4.State rep. by Inspector of Police,
Tiruppur North Police Station,
Tiruppur.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the second respondent, pertaining to the order made in C.No.24/G/IS/TIRUPPUR CITY/2022 dated 08.04.2022 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Goondas and quash the same and direct the respondents to produce the detenu, namely, Dilkash, aged 29 years son of Midarif who is detained at the Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner	..	Mr.J.Franklin
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor

H.C.P.No.2255 of 2022

Mohammed Subhan
S/o.Abdul Vahid

... Petitioner(Detenu)

-VS-

1.State of Tamil Nadu represented
By Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.



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2.The Commissioner of Police,
Tiruppur.

3.The Superintendent,
Central Prison Coimbatore,
Coimbatore.

4.State rep. by Inspector of Police,
Tiruppur North Police Station,
Tiruppur.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the records of the second respondent, pertaining to the order made in C.No.23/G/IS/TIRUPPUR CITY/2022 dated 08.04.2022 in detaining the detenu under the Tamil Nadu Act 14/1982 as a Goondas and quash the same and direct the respondents to produce the detenu, namely, Mohammed Subhan, aged 40 years son of Abdul Vahid who is detained at the Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner .. Mr.J.Franklin

For Respondents .. Mr.R.Muniyapparaj
Additional Public Prosecutor

H.C.P.No.2299 of 2022

Itharza Alam
S/o.Kuddus

... Petitioner(Brother of Detenu)



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-VS-

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- 1.The State of Tamil Nadu represented
By its Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.
 - 2.The Commissioner of Police/Detaining Authority,
Tiruppur City.
 - 3.The Superintendent,
Central Prison,
Coimbatore.
 - 4.State rep. by Inspector of Police,
Tiruppur North Police Station,
Tiruppur.
- ... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records of the second respondent, in his proceeding in C.No.31/G/IS/TIRUPPUR CITY/2022 dated 25.04.2022, to quash the same and consequently direct the respondents to produce the detenu, Murtaj S/o.Kuddus aged 30 years now confined in Central Prison, Coimbatore and set him liberty forthwith.

For Petitioner	..	Mr.K.Sudhakar
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor



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COMMON ORDER

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

This common order will govern the captioned 4 'Habeas Corpus Petitions' ['HCPs' in plural and 'HCP' in singular for the sake of brevity, convenience and clarity].

2.'H.C.P.No.2147 of 2022' is referred to as 'I HCP', 'H.C.P.No.2167 of 2022' is referred to as 'II HCP', 'H.C.P.No.2225 of 2022' is referred to as 'III HCP' and 'H.C.P.No.2299 of 2022' is referred to as 'IV HCP' for the sake of convenience and clarity.

3.The detenus in all the 4 captioned HCPs are accused in the same ground case. The alleged occurrence in the ground case is on 04.03.2022 and suffice to say that the ground case is Crime No.241 of 2022 on the file of the fourth respondent [to be noted the fourth respondent is the Sponsoring authority] for alleged offences under Sections 457 and 380 of the Indian Penal Code [45 of 1860], which shall hereinafter be referred to as 'IPC' for



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the sake of brevity and convenience. The allegation is theft in a jewellery shop by breaking open the same in the night.

4.It may not be necessary to dilate further on facts owing to the perimeter within which captioned matter perambulates.

5.Mr.J.Franklin, learned counsel for petitioner in I, II and III HCPs, Mr.K.Sudhakar, learned counsel for petitioner in IV HCP and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for respondents in all the 4 HCPs are before us.

6.We took up all the 4 HCPs and heard out the same together with the consent of both sides as the detenus are co-accused in the same ground case qua all 4 captioned HCPs.

7.As regards the I HCP, the arguments i.e., campaign against the impugned detention order is predicated on only one point and that one point is six pages in the grounds of detention [to be noted the 'grounds of



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detention' shall be referred to as 'booklet' as the grounds of detention is supplied in the form of a booklet to the detenu] are not legible. Learned counsel submitted that Page Nos.69, 70, 93, 111, 112 and 113 in the booklet are not legible. We carefully perused the booklet, i.e. booklet as served to the detenu. We are convinced that it cannot be gainsaid that the copies are not legible. Therefore, we are unable to accept this argument in petitioners campaign against the impugned detention order.

8.We now move on to the next point that was urged as a common point in I, II and III HCPs. This common point is violation of Section 8(1) of '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 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity]. Section 8(1) mandates that the grounds of detention shall be communicated to the detenu not later than five days from the date of detention. We have repeatedly held that this is a numeric expression of Constitutional safeguard ingrained in Clause (5) of



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Article 22 of the Constitution of India but it is not necessary to elaborate on the same as in the cases on hand, the date of detention in I, II and III HCPs is 08.04.2022 and the booklet has been served on the detenu on 13.04.2022. Considering the two expressions 'from the date of detention' and 'not later than five days', we are convinced that there is no violation of Section 8(1) of Act 14 of 1982. Therefore, this point does not enure to the benefit of the petitioners in their campaign against the impugned detention orders.

9. We now move on to the point canvassed by learned counsel for petitioner in IV HCP. This point turns on translation. Learned counsel submitted that translation of detention order is incorrect. We find that the detention orders are available in English, Tamil and Hindi. We are informed that the detenus are conversant only with Hindi and therefore, the detention orders were translated in Hindi. We are also informed that the detention orders in all 4 HCPs were made in English by the detaining authority. This means that the detention orders in Tamil and Hindi are translations. In the cases on hand, in the light of the ground raised by learned counsel, therefore we have to compare the detention orders in English as made by the detaining



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authority with the translations in Hindi. The point is in the first paragraph of the detention order, one part of a sentence reads 'who is now a remand prisoner at District Prison, Tiruppur', this is missing in Hindi translation. We find that translation has been done by one Balathandapani, who is described as Hindi Pandit. It is quite possible that the Translator has looked at the Tamil version [to be noted, in Tamil version, this part of the sentence is missing] and translated it in Hindi but it is not for us to delve into all that in a Habeas Corpus Petition as the point to be tested is whether this has hampered the detenus' right to make an effective representation which is a Constitutional guarantee/safeguard ingrained in Clause (5) of Article 22 of the Constitution of India. We find that this expression not being found in the translation of the detention orders does not in any manner hamper the right of the detenus to make an effective representation as it is a self sustaining obtaining factual position which is not subjected to any disputation or contestation. Absent infraction of Constitutional guarantee ingrained in Clause (5) of Article 22 of the Constitution of India, this cannot be a ground to dislodge the detention order.



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10.This takes us to another point which was canvassed before us and that is in II and III HCPs. In II and III HCPs, Mr.Franklin, learned counsel for petitioner contended that the detenus have not moved any bail petitions, this has been noticed by the detaining authority but the detaining authority has gone on to make the detention order. Considering the nature of offences, it cannot be gainsaid that there is no possibility of the detenus being enlarged on bail. We find that in the facts and circumstances of the case on hand, the argument is not strong enough to dislodge the subjective satisfaction of the detaining authority in making the detention orders in II and III HCPs.

11.As regards IV HCP, learned counsel contended that the date of arrest is 09.03.2022 and the detention order has been made on 25.04.2022. This point has not been raised in the affidavit filed in support of HCPs. Therefore, we cannot find fault with the State for not explaining [in the counter affidavit] this delay aspect, i.e., live and proximate link between grounds of detention and purpose of detention in the counter affidavit.



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However, learned Additional Public Prosecutor submitted that translation in Hindi of voluminous documents had to be made besides collection of various materials the detenus having been apprehended across the State Borders. We find this explanation good enough. In this regard we remind ourselves of Banik's case wherein Hon'ble Supreme Court in ***Sushanta Kumar Banik Vs. State of Tripura & Ors.*** case reported in ***2022 LiveLaw (SC) 813: 2022 SCC OnLine SC 1333*** held that this live and proximate link between grounds and purpose of detention snapping point to be tested on a case to case basis. This is articulated in paragraph 20 of the Live Law Report [paragraph 21 of SCC Online report] and this paragraph reads as follows:

'20.It is manifestly clear from a conspectus of the above decisions of this Court, that the underlying principle is that if there is unreasonable delay between the date of the order of detention & actual arrest of the detenu and in the same manner from the date of the proposal and passing of the order of detention, such delay unless satisfactorily explained throws a considerable doubt on the genuineness of the requisite subjective satisfaction of the detaining authority in passing the detention order and consequently render the detention



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order bad and invalid because the “live and proximate link” between the grounds of detention and the purpose of detention is snapped in arresting the detenu. A question whether the delay is unreasonable and stands unexplained depends on the facts and circumstances of each case.'

Given the facts and circumstances of the case, considering that it has not been raised in the affidavit but it has been raised at the Bar, the explanation given by the learned Additional Public Prosecutor is acceptable. We make it clear that we come to this conclusion by testing this point on the facts and circumstances of the cases on hand [to be noted Hon'ble Supreme Court in **Banik's** case says that this point has to be tested on a case to case basis]. We also remind ourselves that this 'live and proximate link principle' has not been expressed in numeric terms in Act 14 of 1982 unlike the expression 'as soon as possible' occurring in Article 22(5) of the Constitution of India being expressed in numeric terms [five days] in Section 8(1) of Act 14 of 1982.



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12.Ergo, all the points raised in all the 4 HCPs do not find favour with

us and the sequitur is, all 4 HCPs are dismissed. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
01.02.2023

Index:Yes/No

Neutral Citation : Yes/No

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Chennai – 104.



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

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