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H.C.P.No.2199 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

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

H.C.P.No.2199 of 2022

B.Uma

.. Petitioner

Vs

- 1.The State of Tamil Nadu
rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai Corporation,
Chennai – 7.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai – 66.
- 4.The Inspector of Police,
S-9 Pazhavanthangal Police Station,
Chennai – 114.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 16.09.2022 in BCDFGISSSV No.310/2022 against

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the petitioner's husband Thiru.Seenu @ Burma Seenu @ Seenivasan, S/o.Iraiyan, aged about 46 years, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.R.Sivakumar
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 wife of the detenu assailing a 'preventive detention order dated 16.09.2022 bearing reference BCDFGISSSV No.310/2022' [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.

2. Impugned detention order has been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law



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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.178 of 2022 on the file of S-9 Pzhavanthangal Police Station for alleged offences under Sections 341, 294(b), 323, 336, 392, 397 and 506(ii) 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. Mr.R.Sivakumar, 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. In the support affidavit qua captioned HCP very many grounds have been raised but in the hearing Mr.R.Sivakumar, learned counsel for petitioner posited his argument on one point and that one point pertains to non-furnishing of critical documents which have been relied on in the impugned preventive detention order. The extension of this argument is that non-furnishing of such critical documents relied on in the impugned preventive detention order has impaired detenu's rights to make an effective representation which is a constitutional guarantee ingrained in Article 22 (5) of the Constitution of India.

6. The relevant portion of the impugned preventive detention order reads as follows:

'...Further, the arrest intimation of the accused Thiru.Seenu @ Burma Seenu @ Seenivasan was communicated to his wife Tmt.Uma on the same day, in person. Later, on 23.08.2022, the Inspector of Police produced the accused Thiru.Seenu @ Burma Seenu @ Seenivasan before the Court of learned Judicial Magistrate No.I, Alandur, Chennai – 16 and he was remanded to judicial custody till 05.09.2022 and was lodged at Central Prison, Puzhal, Chennai. Further, his remand period was extended till 26.09.2022 periodically....'



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7. While the remand order dated 23.08.2022 and remand extension order dated 12.09.2022 have been furnished to the detenu as part of the grounds booklet at pages 153 and 163 respectively but extension of remand orders in between (we are informed that there are two extensions, one on 06.09.2022 and the other on 11.09.2022) have not been furnished to the detenu.

8. As the above point turns heavily on records, learned Prosecutor really does not have much of a say. We have no difficulty or hesitation in accepting the submission of learned counsel for petitioner that the right of the detenu to make an effective representation which is a constitutional guarantee ingrained in Article 22 (5) of the Constitution of India has been impaired. The sequitur is, the impugned preventive detention order deserves to be dislodged.

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 16.09.2022 bearing reference BCDFGISSSV No.310/2022 made by the second respondent is set aside and the detenu Thiru.Seenu @ Burma Seenu @ Seenivasan, aged 46 years, son of Thiru.Iraiyar, is directed to be set at liberty forthwith, if not required in connection with any other case / cases. There shall be no



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order as to costs.

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(M.S.,J.) (M.N.K.,J.)
25.04.2023

Index : Yes / No
Neutral Citation : Yes / No
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P.S: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai.

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai Corporation,
Chennai – 7.
- 3.The Superintendent of Prison,
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- 5.The Public Prosecutor
High Court, Madras.



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

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