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H.C.P.No.2155 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2155 of 2022

Shalini

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai – 600 007.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai District.

4.The Inspector of Police,
K-4 Anna Nagar Police Station,
Chennai.

.. 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 relating to the detention order vide Memo BCDFGISSSV No.307/2022 dated 16.09.2022 passed by the second respondent and quash the same and direct the

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respondents herein to produce the petitioner's husband namely Aravind @ Aravindraaj, S/o.Prakash, aged 25 years [who is presently undergoing detention in the Central Prison, Puzhal, Chennai] before this Court and set him at liberty.

For Petitioner : Ms.D.Prasanna
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 No.307/BCDFGISSSV/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 offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act,



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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 is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.282/2022 on the file of K-4 Anna Nagar Police Station for alleged offences under Sections 147, 148, 341, 324 and 302 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.D.Prasanna, 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.

5. We are informed by both sides that co-accused in the ground case was clamped with identical preventive detention order and that preventive detention order was set aside vide order dated 14.03.2023 made in H.C.P.No.2142 of 2022. A scanned reproduction of this order in



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H.C.P.No.2142 of 2022 is as follows:

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H.C.P.No.2142 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE MSUNDAR
and

THE HONOURABLE MR.JUSTICE MNIRMAL KUMAR

H.C.P.No.2142 of 2022

Keerthika
W/o.Ranjith

Petitioner/
Wife of the detenue

Vs.

1. The State of Tamil Nadu
Rep. By the Secretary
Home, Prohibition and Excise Department
Fort St.George, Chennai-600 009.
2. The Commissioner of Police
Greater Chennai
O/o.The Commissioner of Police (Goondas Section)
Vepery, Chennai - 600 007
3. The Superintendent of Police
Central Prison
Puzhal, Chennai District
4. The Inspector of Police
K-4, Anna Nagar Police Station
Chennai

Respondents

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H.C.P.No.2142 of 2022

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 BCDFG(SSSV No.308/2022 dated 16.09.2022 passed by the second respondent and quash the same and direct the respondents herein to produce the petitioner's husband namely Ranjith, son of Prakash, aged 26 years (who is presently undergoing detention in the central prison, Puzhal.Chennai) before this Court and set him at liberty.

For Petitioner : Ms.D.Prasanna

For Respondents : Mr.R.Muniyapparaj
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 wife of detenu assailing a 'preventive detention order dated 16.09.2022 bearing reference Memo No.308/BCDFG(SSSV/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 is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.282 of 2022 on the file of K-4, Anna Nagar Police Station for alleged offences under Sections 147, 148, 341, 324 and 302 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.D.Prasanna, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor for all respondents are before us.

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H.C.P.No.2142 of 2022

5. We are informed by learned State Additional Public Prosecutor that defenu has since been acquitted in the ground case (after full trial) in and by a judgment dated 13.03.2023 in S.C.No.388 of 2022 on the file of XVIII Additional Sessions Court, Chennai. This by itself drops curtains on the matter as the ground case which is the sole substratum of the impugned detention order stands effaced and therefore the impugned detention order deserves to be dislodged.

6. The sequitur is, captioned HCP is allowed. Impugned detention order dated 16.09.2022 bearing reference No.308/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Ranjith, male, aged 26 years, son of Thiru. Prakash is directed to be set at liberty forthwith, if not required in connect-on with any other case / cases. There shall be no order as to costs.

(M.S.,J.) (M.N.K.,J.)
14.03.2023

Index : Yes
Speaking
Neutral Citation : Yes
gpa

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

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6.We are further informed by both sides without any disputation or contestation that the points that were available for the co-accused for

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dislodging the preventive detention order in the aforementioned HCP are available to the petitioner in the captioned HCP also in her campaign against impugned detention order.

7.We are reminded of the age old adage 'Sauce to Goose is sauce to Gander too'. The sequitur is, in captioned HCP also the impugned detention order deserves to be set aside.

8.Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 16.09.2022 bearing reference No.307/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Aravind @ Aravindraaj, male aged 25 years, son of Thiru.Prakash 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.)
03.04.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
cse

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



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To

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- 1.The Secretary,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
O/o.The Commissioner of Police [Goondas Section],
Vepery, Chennai – 600 007.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai District.
- 4.The Inspector of Police,
K-4 Anna Nagar Police Station,
Chennai.
- 5.The Public Prosecutor
High Court, Madras.



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

cse

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03.04.2023