



H.C.P.No.2209 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2209 of 2022

Jevarani

.. Petitioner

Vs.

- 1.The State represented by
The Secretary to Government [Home],
Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The District Collector and Magistrate,
Ranipet, Ranipet District.
- 3.The Superintendent of Police,
Ranipet, Ranipet District.
- 4.The Superintendent of Prisons,
Office of the Superintendent of Prisons,
Central Prison, Vellore,
Vellore District.
- 5.The Inspector of Police,
Banavaram Police Station,
Ranipet District.

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records in pursuant to the detention order issued by the 2nd respondent vide B3/D.O.No.39/2022 dated 04.08.2022 and set aside the same and consequently direct the respondent to produce the detenu Vinoth Kumar @ Vinoth S/o.Balakrishnan aged about 32, son of the petitioner now confined at Central Prison, Vellore, Vellore District before this Court and set him at liberty.

For Petitioner	:	Mr.M.Sathish Kumar
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 04.08.2022 bearing reference B3/D.O.No.39/2022' (hereinafter 'impugned detention order' for the sake of convenience). To be noted, fifth respondent is the sponsoring authority and second respondent is the detaining authority as the impugned detention order has been made by second respondent.

2.Impugned detention order has been made under 'The Tamil Nadu



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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 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are two adverse cases and one ground case. The ground case which is the substratum of the impugned detention order is Crime No.132/2022 on the file of Banavaram Police Station for alleged offences under Sections 294(b), 324, 307 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 in to the factual matrix or be detained further by facts.

4. Mr.M.Sathish Kumar, 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. Notwithstanding very many averments and grounds that have been raised in the support affidavit, Mr.M.Sathish Kumar, learned counsel on record for petitioner, in the hearing predicated his campaign against the impugned preventive detention order on one point and that point turns on copy of Inquest report which has been relied on as part of the grounds is completely illegible. To be noted, the grounds on which the impugned preventive detention order has been made has been supplied to the detenu in the form of booklet [hereinafter referred as 'the said booklet' for the sake of convenience and clarity], pages 10 to 15 of the booklet as served on the detenu were placed before us and a careful perusal of the same shows that it is an inquest report and the same is illegible. Learned counsel submits that this has hampered the right of the detenu to make an effective representation. As this matter turns on illegible copy, learned Additional Public Prosecutor really does not have much of a say and this is more so as the said booklet supplied to the detenu has been placed before us.

6. Right of the detenu to make an effective representation qua the



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preventive detention order is a Constitutional safeguard ingrained in Clause (5) of Article 22 of the Constitution of India. In the light of the narrative thus far, this Constitutional safeguard is hampered. The sequitur is, the impugned preventive detention order deserves to be dislodged.

7.Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 04.08.2022 bearing reference B3/D.O.No.39/2022 made by the second respondent is set aside and the detenu Thiru.Vinothkumar @ Vinoth, male, aged 32 years, son of Thiru.Balakrishnan 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.)

27.03.2023

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, Vellore.

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1.The Secretary to Government [Home],
Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.

2.The District Collector and Magistrate,
Ranipet, Ranipet District.

3.The Superintendent of Police,
Ranipet, Ranipet District.

4.The Superintendent of Prisons,
Office of the Superintendent of Prisons,
Central Prison, Vellore,
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5.The Inspector of Police,
Banavaram Police Station,
Ranipet District.

6.The Public Prosecutor
High Court, Madras.



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and
M.NIRMAL KUMAR, J.,

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