



WEB COPY



H.C.P.No.2222 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR
and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.2222 of 2022

Mookkammal
W/o.Arumugam

.. Petitioner

Vs.

1. State of Tamil Nadu
Rep. by the Secretary
Prohibition and Excise Department
Fort St.George, Chennai-9.
2. The Commissioner of Police
Avadi City Police
Avadi, Chennai-600 054.
3. The Superintendent of Police
Central Prison
Puzhal, Chennai-600 066.
4. The Inspector of Police
T-3, Korattur Police Station
Korattur, Chennai.

.. Respondents

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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 Memo No.BCDFGISSSV No.109/2022 dated 06.09.2022 passed by the 2nd respondent under Tamil Nadu Act 14 of 1982 and quash the same and direct the respondent to produce Mukesh Raja, son of Arumugam, male aged 28 years now confined in Central Prison, Puzhal, Chennai, before this Hon'ble Court and set the detenu Mukesh Raja, son of Arumugam, male aged 28 years at liberty.

For Petitioner	:	Mr.S.Sivasankar
For Respondents	:	Mr.R.Muniyapparaj Additional Public Prosecutor assisted by Mr.M.Sylvester John, Advocate

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by mother of the detenu assailing a 'preventive detention order dated 06.09.2022 bearing reference No.109/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 the 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 are two adverse case and one ground case. The ground case which is the sole substratum of the impugned detention order is Crime No.428 of 2022 on the file of T3 Korattur Police Station for the alleged offences under Sections 341, 294(b), 323, 336, 427, 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 into the factual matrix or be detained further by facts.



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4. Mr.S.Sivasankar, 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. Learned counsel for petitioner predicated his campaign against the impugned detention order on one short point and that is a copy of the similar case bail order which has been referred to by the Detaining Authority in the grounds of detention in Crl. M.P.No.6184 of 2018 [Crime No.145 of 2018 on the file of F-2 Egmore Police Station for alleged offences under Sections 341, 294(b), 323, 336, 427, 307 and 506(ii) of IPC] on the file of the Principal Sessions Court, Chennai has not been furnished to the detenu.

6. The learned Additional Public Prosecutor does not have much of a say.

7. On a perusal of the booklet, it is seen that as contended by the learned counsel for the petitioner that the copy of the similar case bail order



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has not been provided to the detenu which has impaired his constitutional right to make an effective representation of the impugned detention order.

We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

8. Before concluding, we also remind ourselves that preventive detention is not a punishment and HCP is a high prerogative writ.

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 06.09.2022 bearing reference No.109/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Mukesh Raja, aged 26 years, son of Thiru.Arumugam 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.)

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Index : Yes

Speaking

Neutral Citation : Yes

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

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

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To

1. State of Tamil Nadu
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T-3, Korattur Police Station
Korattur, Chennai.
5. The Inspector of Police
Chinnasalem Police Station
Kallakurichi District.
Kallakurichi.
6. The Public Prosecutor
High Court, Madras.

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