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H.C.P.No.2230 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MRS JUSTICE **K. GOVINDARAJAN THILAKAVADI**

H.C.P.No.2230 of 2022

Gowtham

.. Petitioner

VS

1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 09.

2.The Commissioner of Police,
Greater Chennai.

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

4.The Inspector of Police,
Cyber Crime Division I Police Station,
Chennai City.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records in connection with the order of detention passed by the second respondent 14.10.2022 in No.360/BCDFGISSSV/2022 against the petitioner's brother Ranjith, Male, aged 27 years, S/o.Ezhilarasan, who is confined at Central Prison, Puzhal and set aside the same and direct



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the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Balaji
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' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by brother of the detenu assailing 'detention order dated 14.10.2022 bearing reference No.360/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience]. To be noted, the fourth respondent is the sponsoring authority and the second respondent is the detaining authority as impugned detention order has been made by the 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



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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 'Cyber Law Offender' within the meaning of Section 2(bb) of Act 14 of 1982.

3. There are three adverse cases. The ground case which constitutes substantial part of substratum of the impugned detention order is Cyber Division-I Crime No.35 of 2021 on the file of Cyber Crime Cell, Central Crime Branch for alleged offences under Sections 384, 354C and 509 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] and 66E and 67 of Information Technology Act, 2000. 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.D.Balaji, 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. Though very many grounds have been urged in the support affidavit, Mr.D.Balaji, learned counsel for petitioner predicated his



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campaign against the impugned preventive detention order on one ground and that ground is, copy of the complaint against the detenu at page Nos. 29 to 31 of the grounds booklet and the copy of List of Properties sent to Magistrate at page No.231 of the booklet are illegible. We had the benefit of perusing the grounds booklet and we have no difficulty in agreeing with the submission of the learned counsel for petitioner.

6. However, learned State Additional Public Prosecutor in his endeavour to defend the impugned preventive detention order submitted that as regards the complaint at page Nos.29 to 31, the same has been extracted and reproduced in the First Information Report (FIR). It may require a trained legal mind to understand that the complaint has been extracted and reproduced in the FIR. Therefore, we are unable to accept this argument of learned Prosecutor and we have no difficulty in saying that these copies which are not legible have clearly impaired the detenu's rights to make an effective representation which is a constitutional safeguard ingrained in Article 22(5) of the Constitution of India. As regards page No.231 - List of Properties sent to Magistrate, copy not being clear, it is a matter of record and therefore the learned State Additional Public Prosecutor really does not have much of a say. As detenu's valuable right to make an effective representation has been impaired and it is a constitutional guarantee



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ingrained in Article 22 (5) of the Constitution of India, we have no difficulty in coming to the conclusion that the impugned preventive detention order deserves to be dislodged.

7. Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 14.10.2022 bearing reference No.360/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Ranjith, aged 27 years, son of Thiru.Ezhilarasan is directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
05.06.2023

Index : Yes

Neutral Citation : Yes

mmi

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

To

- 1.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 09.
- 2.The Commissioner of Police, Greater Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal.
- 4.The Inspector of Police,
Cyber Crime Division I Police Station, Chennai City.
- 5.The Public Prosecutor, High Court, Madras.



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**M.SUNDAR, J.,
and
K. GOVINDARAJAN THILAKAVADI, J.,**

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