



H.C.P.No.2288 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

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

H.C.P.No.2288 of 2022

Jothika

.. Petitioner

Vs

- 1.State of Tamil Nadu rep. By
The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Police,
The Greater Chennai City,
Vepery, Chennai – 7.
- 3.The Superintendent of Prison,
Special Prison for Women, Puzhal, Chennai – 66.
- 4.The Inspector of Police,
D4 Zam Bazaar 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 in Nemo No.337/BCDFGISSSV/2022 dated 07.10.2022 passed by the second respondent under the Tamil

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Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's mother Kala, W/o.Sekar @ City Sekar, aged about 52 years, the detenue, now confined in Special Prison for Women, Puzhal, Chennai before this Court and set the petitioner's mother Kala, W/o.Sekar @ City Sekar, aged about 52 years, the detenue herein at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.T.V.Somasundaram

For Respondents : Mr.E.Raj Thilak
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 daughter of the detenue assailing a 'preventive detention order dated 07.10.2022 bearing reference BCDFGISSSV No.337/2022' [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 detenue is a 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. The ground case which is the sole substratum of the impugned detention order is Crime No.122 of 2022 on the file of D4 Zam Bazaar Police Station, for alleged offences under Sections 147, 148, 341, 324, 302 r/w 34 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.S.Senthilvel, learned counsel representing the counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.



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5. When the matter was taken up, learned counsel for petitioner submitted that the five co-accused in the ground case were clamped with similar preventive detention orders i.e., similar to impugned preventive detention order in the captioned matter. All the five had challenged the respective preventive detention orders by way of HCPs and the same have been allowed by separate orders of this Court dated 10.04.2023. The details are as follows:

Sl. No.	Name of the petitioner	Name of the detenu	HCP Number	Date of order in HCP	Neutral Citation
1	Indira	Surya	2052/2022	10.04.2023	2023:MHC: 1818
2	Thulasi	Deva	2059/2022	10.04.2023	2023:MHC: 1814
3	Murugammal	Aravind @ Madurai Aravind	2061/2022	10.04.2023	2023:MHC: 1856
4	Ramya	Arun @ Karupandi	2063/2022	10.04.2023	2023:MHC: 1816
5	Jothika	Sekar @ City Sekar	2069/2022	10.04.2023	2023:MHC: 1815

6. A careful perusal of the above cases brings to light that the ground on which the preventive detention orders were set aside in the aforementioned five cases i.e., 'live and proximate link' between the grounds of detention and purpose of detention has snapped would apply in all fours to the case on hand also. As this turns on matters of



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record and orders already passed by this Bench, learned State Additional Public Prosecutor really does not have much of a say. Therefore, the inevitable sequitur is, in the case on hand also, the impugned preventive detention order deserves to be dislodged by allowing the captioned HCP.

7. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 07.10.2022 bearing reference BCDFGISSSV No.337/2022 made by the second respondent is set aside and the detenu Tmt.Kala, aged 52 years, W/o.Thiru.Sekar @ City Sekar, 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.)
24.04.2023

Index : Yes
Neutral Citation : Yes
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P.S: Registry to forthwith communicate this order to Jail authorities in Special Prison for Women, Puzhal, Chennai.

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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- 2.The Commissioner of Police,
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Vepery, Chennai – 7.
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- 4.The Inspector of Police,
D4 Zam Bazaar Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court, Madras.



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

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