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H.C.P.No.2341 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P.No.2341 of 2022

Sathish

.. Petitioner

Vs

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai -9.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai – 7.
- 3.The Superintendent,
Central Prison II, Puzhal, Chennai 66.
- 4.The Inspector of Police,
Organized Crime Unit I,
Crime Branch CID, Egmore, Chennai – 8.

.. 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 in
connection with the order of detention passed by the second
respondent vide order in BCDFGISSSV No.406/2022 dated 04.11.2022

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against the petitioner (Sathish, son of Dayalan, male, aged about 31 years) and the petitioner was confined at Central Prison II, Puzhal, Chennai and set aside the same and direct the respondents to produce the petitioner before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel
for Mr.R.Kisoth Kumar

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 the detenu assailing a 'preventive detention order dated 04.11.2022 bearing reference BCDFGISSSV No.406/2022' [hereinafter 'impugned preventive 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 preventive detention order has been made under 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers,



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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.172 of 2022 on the file of Mambalam Railway Police Station for alleged offence under Section 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. 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. In the support affidavit qua captioned HCP, several grounds have been urged/raised but in the Final Hearing Board today, Mr.S.Senthilvel, learned counsel representing the counsel on record for HCP petitioner predicated his campaign against the impugned preventive detention order on one point and that one point is different dates of occurrence (date of commission) being given in the Arrest Card which is in English and the Tamil translation of the same.

6. Elaborating on the aforesaid point, learned counsel drew our attention to pages 83 and 85 of the grounds booklet and a scanned reproduction of the same is as follows:



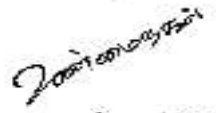
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TAMILNADU POLICE
ARREST CARD

District	GRP CHENNAI	Police Station	MAMBALAM
Crime No. & Section of Law	: 172/2022 302 IPC		
Date Of Commission	: 13-10-2022		
Name & Address of the Accused	: SATHISH D (S/O) DHAYALAN NO.16, NORTH NAJASRD CROSS STREET, ALANDUR, CHENNAI.		
Place of Arrest	: OMR ROAD KANDANCHAVADI, NEAR TOLGATE		
Date & Time of Arrest	: 14-10-2022 @ 02:30 Hrs.		
Distance & Direction from PS	: 15.0 Kms. South		
Arrested By	: VAIRAVAN- INSPECTOR OF POLICE		
Date & Time of brought to PS	: 14-10-2022 @ 05:45 Hrs		
How Disposed off ?	: FORWARDED TO JUDICIAL CUSTODY		


INSPECTOR OF POLICE
MAMBALAM Police Station
Chennai - 45,
INSPECTOR OF POLICE


INSPECTOR OF POLICE
EGMORE, CHENNAI - 8.
@CU-I, CHCID



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தமிழ்நாடு காவல் துறை

கைது அறிக்கை

மாவட்டம் - அரக இருப்பப்பாறை காவல் காவல் நிலையம் - மாம்பலம்

குற்றம் எண் மற்றும் சட்டப் பிரிவுகள் : கு.எண்.172/2022 ச/பி 302 இநச

குற்றம் நடந்த நாள் மற்றும் நேரம் : 27.09.2022

கைது செய்யப்பட்ட எதிரிகளின் பெயர்கள் மற்றும் முகவரி : சதீஸ், ஆன், வயது 30, த/பெ தயானன், எண்.1/5, வடக்கு ராஜா 3வது குழுக்குத் தெரு, ஆலந்தூர், சென்னை

கைது செய்யப்பட்ட இடம் : பழைய மகாபலிபுரம் சாலை, கத்தன்சாவடி, சோதனைச்சாவடி அருகில்

கைது செய்யப்பட்ட நாள் மற்றும் நேரம் : 14.10.2022 அன்று 0230 மணி

காவல் நிலையத்திலிருந்து எவ்வளவு தூரத்தில் கைது செய்யப்பட்டார்? : 15.0 கிமீ தெற்கு

யாரால் கைது செய்யப்பட்டார்? : வைரவன், காவல் ஆய்வாளர்

காவல் நிலையத்திற்கு எதிரி கொண்டு வரப்பட்ட நாள் மற்றும் நேரம் : 14.10.2022 அன்று 0645 மணி

எதிரி எங்கு எப்போது எப்படி அனுப்பி வைக்கப்பட்டார்? : எதிரி நீதிமன்றக் காவலுக்கு அனுப்பப்பட்டார்.

ஒம்/- வைரவன்
காவல் ஆய்வாளர்,
மாம்பலம் இருப்பப்பாறை காவல்
நிலையம், சென்னை.

/ உண்மை நகல் /

V. Jayap
**INSPECTOR OF POLICE
EGMORE, CHENNAI - 8.
OCU-1, CBCTD**



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7. As already alluded to supra, Arrest Card in English and translation is in Tamil. It is seen that while the Arrest Card in English says the column as 'Date of Commission' alone Tamil translation of the column, it is 'குற்றம் நடந்த நாள் மற்றும் நேரம்'. Besides this, while the English Arrest Card shows the date of commission as 13.10.2022, Tamil translation shows the same as 27.09.2022.

8. The above point turns solely on records before us and therefore learned Prosecutor really does not have much of a say.

9. Be that as it may, the aforementioned dates in the Arrest Card in English and Tamil translation of the same is that of a nature which can baffle the detenu, impairing his right to make an effective representation against the impugned preventive detention order. To be noted, right of a detenu to make a representation i.e., an effective representation against a preventive detention order is sanctus/sacrosanct constitutional safeguard ingrained in Article 22(5) of the Constitution of India and therefore the infraction of the same vitiates the impugned preventive detention order and leaves the



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preventive detention order liable for dislodgement in this habeas legal drill.

10. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 04.11.2022 bearing reference BCDFGISSSV No.406/2022 made by the second respondent is set aside and the detenu Thiru.Sathish, aged 31 years, Son of Thiru. Dhayalan, 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.) (R.S.V.,J.)
10.07.2023

Index : Yes/No
Neutral Citation : Yes/No
mmi

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

To

1. The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai -9.
2. The Commissioner of Police,
Greater Chennai, Vepery, Chennai – 7.

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3.The Superintendent,
Central Prison II, Puzhal, Chennai 66.

4.The Inspector of Police,
Organized Crime Unit I,
Crime Branch CID, Egmore, Chennai – 8.

5.The Public Prosecutor
High Court, Madras.



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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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