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H.C.P.No.2430 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN

THILAKAVADI

H.C.P.No.2430 of 2022

Lakshmi

W/o.Ramamurthy

.. Petitioner/mother of Detenu

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Greater of Chennai,
Vepery, Chennai – 600 007.

3.The Inspector of Police,
K-1, Sembium Police Station,
Perambur,
Chennai – 600 011.

4.The Superintendent of Central Prison,
Puzhal, Chennai – 600 066.

.. Respondents



H.C.P.No.2430 of 2022

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records made in No.382/BCDFGISSSV/2022 dated 21.10.2022 on the file of Commissioner of Police, Greater Chennai, Vepery, Chennai-7, the second respondent herein and quash the same as illegal and direct the respondents to produce the detenu Saravanan, son of Ramamurthy, aged 42 years, before this Court now confined in Central Prison, Puzhal, Chennai, the 4th respondent herein and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu

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

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 21.10.2022 bearing reference No.382/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, third respondent is the sponsoring authority and second respondent is the detaining authority as 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 is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.570 of 2022 on the file of K-1, Sembium Police Station for an 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.R.Sankarasubbu, learned counsel 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. Multiple points have been urged in the HCP support affidavit but in the hearing, Mr.R.Sankarasubbu, learned counsel appearing for petitioner predicated his campaign against impugned preventive detention order on one point and the same finds favour with us. Therefore, we shall discuss and give dispositive reasoning on that one point without dilating on other points urged in support affidavit. Learned counsel took us through the grounds of impugned preventive detention order and drew our attention to a portion of the same, which reads as follows:

'... Thiru.Saravanan before the learned Court of Vth Metropolitan Magistrate, Egmore, Chennai – 600 008, on 16.09.2022 the said Court sent the accused to the Judicial custody till 30.09.2022 and he was lodged at Central Prison, Puzhal, Chennai as a remand prisoner. His remand period was further extended periodically till 28.10.2022.'

6. Adverting to the above portion of the impugned preventive detention order grounds learned counsel submitted that in the grounds booklet served on the detenu, more particularly at page 131, a Remand Extension Order dated 30.09.2022 alone has been furnished and that Remand Extension



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Order talks about remand extension up to 14.10.2022. This Bench had the benefit of perusing the grounds booklet served on the petitioner and there is no reason to disagree with the learned counsel for petitioner. To put it with specificity, the point that is urged by the learned counsel is, the remand extension post 14.10.2022, i.e., remand extension up to 28.10.2022, which has not just been noticed but categorically adverted to by the detaining authority in the preventive detention order grounds, has not been furnished to the detenu.

7. Learned Additional Public Prosecutor also had the benefit of perusing the grounds booklet served on the detenu. There cannot be any contestation that Remand Extension Order post 14.10.2022 has not been furnished to the detenu. As this matter turns heavily on records, learned Additional Public Prosecutor really does not have much of a say.

8. In the light of the narrative, discussion and dispositive reasoning set out supra, we have no difficulty in holding that the rights of the detenu to make an effective representation, which is a constitutional safeguard ingrained in Clause (5) of Article 22 of the Constitution of India, has been



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impaired. This means that the impugned preventive detention order deserves to be dislodged.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 21.10.2022 bearing reference No.382/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Saravanan, aged 42 years, son of Thiru.Ramamurthy, now detained in Central Prison, Puzhal, Chennai is directed to be set at liberty forthwith unless required in connection with any other case/s. There shall be no order as to costs.

(M.S.,J.) (K.G.T.,J.)
05.06.2023
(1/3)

Index : Yes
Speaking order
Neutral Citation : Yes
rsi

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



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To

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- 1.The Secretary,
Home, Prohibition and Excise Department,
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- 2.The Commissioner of Police,
Greater of Chennai,
Vepery, Chennai – 600 007.
- 3.The Inspector of Police,
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Chennai – 600 011.
- 4.The Superintendent of Central Prison,
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- 5.The Public Prosecutor
High Court, Madras.



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

rsi

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