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H.C.P.No.2405 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

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

H.C.P.No.2405 of 2022

Latha

.. Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George, Chennai -9.
2. The District Collector and District Magistrate,
Chengalpattu District, Chengalpattu.
- 3.The Superintendent of Police,
Chengalpattu District, Chengalpattu.
- 4.The Inspector of Police,
Chengalpattu Town Police Station,
Chengalpattu.
- 5.The Superintendent of Prison,
Central Prison II, Puzhal, 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 in
CPT No.65/2022 dated 11.11.2022 on the file of second respondent
herein and set aside the same as illegal and produce the detenu Gopi

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@ Gopinath, son of Kutty @ Pushpalingam, aged about 27 years, now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Ilayaraja Kandasamy
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' ['HCP' for the sake of brevity] has been filed by mother of detenu assailing a 'preventive detention order dated 11.11.2022 bearing reference CPT. No.65/2022' [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 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 'Goonda' within the meaning of Section 2(f) of Act 14 of 1982.

3. There are two adverse cases. The ground case which is the sole substratum of the impugned detention order is Crime No.492 of 2022 on the file of Chengalpattu Town Police Station for alleged offences under Sections 341, 294(b), 324, 307 and 506(ii) of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] subsequently altered into one under Sections 147, 148, 341, 294(b), 324, 307, 506(ii) IPC. 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. Ilayaraja Kandasamy, learned counsel on record for petitioner and Mr. R. Muniyapparaj, learned State Additional Public Prosecutor assisted by Mr. M. Sylvester John for all respondents are before us.



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5. Though very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument in his challenge against the impugned detention order on one point and that point is not providing translated copy of a document relied on by the detaining authority in a language which the detenu is conversant with. Elaborating on the submission, learned counsel drew our attention to page Nos.163 and 165 of the booklet which is the order granting police custody (ground case). No Tamil translation of this order has been furnished to the detenu.

6. As this turns on obtaining facts which are before us learned State Additional Public Prosecutor does not have much of a say.

7. Be that as it may we are informed that the literacy level of the detenu is Diploma in Automobile Engineering. We are also informed that the detenu is conversant only with Tamil. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**. The question which the Honourable Bench of the Supreme Court addressed itself to in a similar fact situation is captured in paragraph 6 and the manner in which a Honourable Bench

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of the Supreme Court answered this question is captured in paragraph

16. To be noted, Powanammal case is reported in **(1999) 2 SCC 413**

and paragraphs 6 and 16 {as in SCC journal} read as follows:

'6. The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

8. Applying *Powanammal* principle, we have no hesitation in saying that the impugned detention order in the case on hand deserves to be dislodged.

9. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 11.11.2022 bearing reference CPT No.65/2022 made by the second respondent is set aside and the detenu Thiru.Gopi @ Gopinath, male, aged 27 years, son of



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Thiru.Kutty @ Pushpalingam 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.)
01.06.2023

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 Secretary to Government,
Department of Prohibition and Excise (Home),
Fort St.George, Chennai -9.
2. The District Collector and District Magistrate,
Chengalpattu District, Chengalpattu.
- 3.The Superintendent of Police,
Chengalpattu District, Chengalpattu.
- 4.The Inspector of Police,
Chengalpattu Town Police Station,
Chengalpattu.
- 5.The Superintendent of Prison,
Central Prison II, Puzhal, Chennai.
- 6.The Public Prosecutor
High Court, Madras.

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and
R.SAKTHIVEL, J.,**

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