



H.C.P.No.2475 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

Coram

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

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Kalaiselvi

.. Petitioner

VS

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.
- 3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 5.The Inspector of Police,
Koothanallur Police Station,
Thiruvarur District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the entire records connected with the detention order in C.O.C.No.42/2022 dated 13.11.2022 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's



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husband one named Thiru. Maran, S/o. Saminathan, aged about 48 years, now confined at Central Prison, Trichy before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Muthamizhselvakumar
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John

ORDER

[Order of the Court was made by **K. GOVINDARAJAN THILAKAVADI, J.**]

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by wife of the detenu assailing a 'preventive detention order dated 13.11.2022 bearing reference C.O.C.No.42/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fifth 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 Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14



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of 1982' for the sake of convenience and clarity] on the premise that the detenu is a 'Bootlegger' within the meaning of Section 2(b) 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 Crime No.685 of 2022 on the file of Nannilam Prohibition Enforcement Wing, for alleged offences under Sections 4(1)(aaa) r/w 4(1-A) of Tamil Nadu Prohibition Act, 1937 and Section 328 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.P.Muthamizhselvakumar, 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 learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focused his argument on the ground that the detaining authority, while



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detaining the detenu, has not furnished the legible copies of the documents relied on by him. This deprived the detenu from making effective representation. Therefore, on this sole ground, the detention order is liable to be quashed.

6. Per contra, learned Additional Public Prosecutor would submit that the order of detention has been passed on cogent and sufficient materials and the same cannot be interfered with at the instance of the petitioner. Therefore, he submits that the Habeas Corpus Petition does not merit any consideration and the same is liable to be dismissed.

7. On consideration of the submissions made on either side and upon perusal of the documents available on record, especially the lab report pertaining at Page No.79 of the booklet, it is clear that the detaining authority, by providing illegible copies of the documents, has taken away the rights of detenu to effectively defend himself against his detention. Thus the impugned detention order is liable to be set aside on this ground.

8. In the result, this habeas corpus petition is allowed. Impugned detention order dated 13.11.2022 bearing reference



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C.O.C.No.42/2022 made by the second respondent is set aside and the detenu Thiru.Maran, aged 48 years, son of Thiru.Saminathan, 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.) (K.G.T.,J.)
08.06.2023

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

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

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.
- 3.The Superintendent of Police,
O/o. Superintendent of Police,
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- 5.The Inspector of Police,
Koothanallur Police Station,
Thiruvarur District.
- 6.The Public Prosecutor
High Court, Madras.



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

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