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H.C.P.No.2501 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.2501 of 2022

Chinnaponnu
W/o.Rajendran

.. Petitioner/Mother of Detenu

Vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Chennai.

3.The Superintendent,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
V-4 Rajamangalam Police Station,
Chennai.

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records in connection with the order of detention passed by the second respondent dated 07.10.2022 in No.339/BCDFGISSSV/2022 against the petitioner's son Sanjay @ Parattai Sanjay, M/A. 22 years, S/o.Rajendran, who is confined at Central Prison, Puzhal, Chennai and to set aside the same and consequently direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.M.Mohamed Saifulla
for Mr.K.Kannan

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 07.10.2022 bearing reference 339/BCDFGISSSV/2022' [hereinafter 'impugned detention order' for the sake of convenience and brevity]. To be noted, fourth respondent is the sponsoring authority and second respondent



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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 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 six adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned detention order is Crime No.689 of 2022 on the file of V-4 Rajamangalam Police Station for alleged offences under Sections 341, 294(b), 307 and 506(ii) 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.



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4. Mr.M.Mohamed Saifulla, learned counsel representing Mr.K.Kannan, 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 very many grounds have been raised in the support affidavit, learned counsel for petitioner at the hearing projected his argument qua challenge to the impugned detention order on one point and that point is not providing correct translated copy of a document (relied on by the detaining authority). Elaborating on the submission, learned counsel drew our attention to page Nos.169 and 170 of the booklet which are (i) Remand Order dated 03.09.2022 in English and (ii) Remand Order dated 03.09.2022 in Tamil, respectively. No proper translation of this document has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that Remand Order forms part of the ground on which the impugned detention order has been made. English version of the same reads as follows:

‘.. explained the nature of crime and legal aid. ...’



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Tamil translation of aforementioned Remand Order reads as follows:

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'.. அடைப்புக்காவலுக்கான முகாந்திரத்தையும், காரணத்தையும் சட்டப்படி விவரிக்கப்பட்டது. ...'

As this turns on obtaining scenario which comes to light from the booklet which is before us, learned State Additional Public Prosecutor does not have much of a say.

6. Be that as it may, we are informed that the literacy level of the detenu is Diploma in Computer Technology and he has discontinued his diploma course. 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***, wherein Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in which a Hon'ble Bench 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



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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. '

7. We find that the aforementioned **Powanammal** case applies in all fours to the case on hand as we find that Remand Order which has been relied on as part of the grounds of detention qua impugned detention order is a crucial document and improper translation of the same has impaired detenu's constitutional right to make an effective representation of the impugned detention order. We therefore have no hesitation in saying that the impugned detention order deserves to be dislodged.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 07.10.2022 bearing reference 339/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Sanjay @ Parattai Sanjay, aged 22 years, son of Thiru.Rajendran, now detained in



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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

hIndex : Yes
Speaking order
Neutral Citation : Yes
rsi

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

To

- 1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Chennai.



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and
K.GOVINDARAJAN THILAKAVADI, J.

rsi

3.The Superintendent,
Central Prison, Puzhal,
Chennai – 600 066.

4.The Inspector of Police,
V-4 Rajamangalam Police Station,
Chennai.

5.The Public Prosecutor
High Court, Madras.

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