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H.C.P.No.2494 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2023

Coram

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

H.C.P.No.2494 of 2022

Kumari

.. Petitioner

VS

1.State of Tamil Nadu rep. By
The Additional Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.

2.The Commissioner of Police,
Avadi City, Avadi, Chennai – 54.

3.The Inspector of Police,
T-1 Ambattur Police Station,
Chennai.

4.The Superintendent of Prison,
Central Prison II, Puzhal, Chennai – 66.

.. 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 relating to the detention order in Memo No.152/BCDFGISSSV/2022 dated 12.11.2022 passed by the second respondent under the Tamil Nadu Act 14 of 1982 and set aside the same and direct the respondents to produce the petitioner's son Thiru.Gandhi, S/o.Perumal, aged about 30 years, the detenu, now confined in Central Prison, Puzhal, Chennai, before this Court and set the petitioner's son Thiru.Gandhi, S/o.Perumal, aged about 30 years the detenu herein at liberty.



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For Petitioner : Mr.R.Muthukumar
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 12.11.2022 bearing reference BCDFGISSSV No.152/2022' [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.

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 'Drug Offender' within the meaning of Section 2(e) of Act 14 of 1982.



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3. There is no adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.650 of 2022 on the file of T-1 Ambattur Police Station for alleged offence under Section 8(c) r/w 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985. 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.Muthukumar, 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.

5. Though several grounds have been raised in the support affidavit, learned counsel for petitioner in the arguments at the time of hearing pivoted his campaign against the impugned preventive detention order on one point and that one point turns on incorrect/improper translation. Learned counsel adverting to pages 63 and 67 of the booklet submits that the remand order dated 26.09.2022 has not been correctly translated while the English version says '*...explained Section 54 of Cr.PC complied with no visible injuries seen*', the same has not been translated in Tamil. As this turns on obtaining



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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. In this regard, we are informed that the literacy level of the detenu is only 4th standard in school and that he is a school drop out. We remind ourselves of Powanammal case i.e., **Powanammal Vs. State of Tamil Nadu**. Honourable Supreme Court addressed to itself this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed to itself is captured in paragraph 6 and the manner in which a Honourable 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 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. '



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

8. Apropos, the sequitur is, captioned HCP is allowed. Impugned detention order dated 12.11.2022 bearing reference BCDFGISSSV No.152/2022 made by the second respondent is set aside and the detenu Thiru.Gandhi, aged 30 years, son of Thiru.Perumal 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.)
12.06.2023

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 Additional Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.
- 2.The Commissioner of Police,
Avadi City, Avadi, Chennai – 54.



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3.The Inspector of Police,
T-1 Ambattur Police Station,
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4.The Superintendent of Prison,
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5.The Public Prosecutor
High Court, Madras.



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

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