



H.C.P.No.2514 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

H.C.P.No.2514 of 2022

A.Saranya

.. Petitioner

Vs

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
[Goondas Section]
Vepery, Chennai – 600 007.

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

4.State By:
Inspector of Police,
Railway Police Station,
Egmore, Chennai – 600 008.

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling for the records pertaining to the order of detention passed by the second respondent herein and made in BCDFGISSSV.No.365/2022 dated 14.10.2022 and to set aside the same and directing the third respondent to produce the detenu Thiru.Hari @ Hariharan, aged 21 years S/o.(Late) Appanraj, now confined in Central Prison-II, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.M.Mathan Raj
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 14.10.2022 bearing reference BCDFGISSSV.No.365/2022' [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,



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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 one adverse case. The ground case which is the sole substratum of the impugned detention order is Crime No.363/2022 on the file of Egmore Railway Police Station for alleged offences under Sections 294(b), 341 and 307 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.M.Mathan Raj, 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.



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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 qua challenge to 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 pages 62 to 65 of the booklet which is the Arrest/Court Surrender Form. No Tamil translation of this form has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that Arrest/Court Surrender Form forms part of the ground on which the impugned detention order has been made. 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 10th standard in school and he is a school drop out. 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**



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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 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.In the case on hand, we find that Arrest/Court Surrender Form which has been relied on as part of the grounds of detention qua impugned detention order is a crucial form and not furnishing the translation of the



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same in Tamil the lone language known to the detenu has impaired his constitutional right to make an effective representation qua 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 14.10.2022 bearing reference BCDFGISSSV.No.365/2022 made by the second respondent is set aside and the detenu Thiru.Hari @ Hariharan, male, aged 21 years, son of Thiru.Appanraj [Late] 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.)

(M.N.K.,J.)

17.04.2023

Index : Yes / No

Neutral Citation : Yes / No

Speaking Order/Non-Speaking Order

cse

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

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WEB COPY

To

- 1.The Additional Chief Secretary,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police [Goondas Section]
Vepery, Chennai – 600 007.
- 3.The Superintendent,
Central Prison-II,
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Egmore, Chennai – 600 008.
- 5.The Public Prosecutor,
High Court, Madras.



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**M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,**

cse

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