



H.C.P.No.2513 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MR.JUSTICE **R.SAKTHIVEL**

H.C.P.No.2513 of 2022

S.Rajeswari

.. Petitioner

VS

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.

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

3.The Superintendent of Police,
Central Prison, Puzhal, Chennai – 66.

4.The Inspector of Police,
P-6 Kodungaiyur Police Station,
Tiruvallur.

.. 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 connection with the order of detention passed by the second respondent dated 21.10.2022 in No.376/BCDFGISSSV/2022 against the petitioner's husband Senthilkumar @ Line Senthilkumar, male, aged 35 years, S/o.Vijayakumar, who is confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.



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For Petitioner : Mr.M.V.Bibin Mahesh
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

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 wife of detenu assailing a 'preventive detention order dated 21.10.2022 bearing reference No.376/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 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.



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3. There are three adverse cases. The ground case which constitutes substantial part of substratum of the impugned detention order is Crime No.700 of 2022 on the file of P-6 Kodungaiyur Police Station for the alleged offences under Sections 341, 294(b), 353, 332, 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.

4. Mr.M.V.Bibin Mahesh, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all respondents are before us.

5. In the support affidavit qua captioned HCP, several grounds are raised but in the hearing, learned counsel for petitioner posited his campaign against the impugned preventive detention order on one point and that one point turns on subjective satisfaction qua imminent possibility of detenu being enlarged on bail.

6. Adverting to the impugned preventive detention order, learned counsel submitted that the detaining authority has relied on bail order dated 26.10.2016 in CrI.M.P. No.17851 of 2016 von the file of



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Principal Sessions Judge, Chennai to arrive at subjective satisfaction qua aforementioned point. Learned counsel took us through Sella @ Selvam's bail (hereinafter '*Sella's case*' for the sake of convenience and clarity) order which is at pages 143 and 144 of the grounds booklet. Learned counsel drew our attention to paragraph 5 of the bail order in *Sella's case* and the same reads as follows:

'5. Learned CPP submits that no one sustained injury in this case and except the present two cases, the petitioner is on bail in other cases pending against him.'

7. Learned counsel submits that in the case on hand, there is no disputation that injuries were allegedly sustained by the victim and therefore the two cases are not comparable.

8. Learned Prosecutor submitted to the contrary by saying that the two cases are broadly comparable. We are unable to sustain the submission of the Prosecutor as what has weighed in the mind of learned Sessions Judge in granting bail is that no one has suffered injury in *Sella's case*. Therefore, the comparison is flawed. As the comparison is flawed, the sequitur is, subjective satisfaction qua imminent possibility of detenu being enlarged on bail is flawed and we are inclined to interfere qua impugned preventive detention order.

9. Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 21.10.2022 bearing reference



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No.376/BCDFGISSSV/2022 made by the second respondent is set aside and the detenu Thiru.Senthilkumar @ Line Senthilkumar, aged 35 years, son of Thiru.Vijayakumar, 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.)
13.06.2023

Index : Yes
Neutral Citation : Yes
mmi

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

To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.
- 2.The Commissioner of Police,
Greater Chennai, Chennai.
- 3.The Superintendent of Police,
Central Prison, Puzhal, Chennai – 66.
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- 5.The Public Prosecutor,
High Court, Madras.



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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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