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H.C.P.No.2530 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**

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Rani

.. Petitioner

VS

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

2.The Commissioner of Police,
Greater Chennai.

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

4.The Inspector of Police, L & O,
J-9 Thuraipakkam Police Station,
Chennai.

.. 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 22.11.2022 in Memo No.427/BCDFGISSSV/2022 against the petitioner's son namely Mani @ Meen Mani, male, aged 27 years, S/o.Sekar, 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.S.Senthilvel
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor
assisted by
Mr.M.Sylvester John

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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 mother of detenu assailing a 'preventive detention order dated 22.11.2022 bearing reference BCDFGISSSV No.427/2022' [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.426 of 2022 on the file of J-9 Thuraipakkam Police Station for alleged offences under Sections 294(b), 323, 336, 427 r/w 392, 397 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.S.Senthilvel, 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. Learned counsel for the petitioner assailed the order of detention on the ground that the translated copy of the bail petition in CrI.M.P.No.5410 of 2022 on the file of District and Sessions Judge, Chengalpet has not been furnished to the detenu, which according to him, deprived the rights of the detenu to make an effective representation.



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6. There is no satisfactory explanation offered by the learned Additional Public Prosecutor for the non-supply of the above said document.

7. A perusal of the booklet furnished to the detenu particularly Page No.197 would show that only English version of the bail petition in CrI.M.P.No.5410 of 2022 on the file of District and Sessions Judge, Chengalpet has been furnished to the detenu and translation of the same in regional language has not been furnished.

8. Learned counsel for the petitioner submitted that the detenu has completed only 8th standard and he is unable to follow the English version. According to the principles laid down by the Honourable Supreme Court in *Powanammal* case i.e., **Powanammal Vs. State of Tamil Nadu** reported in **(1999) 2 SCC 413**, non-furnishing of the document in the language in which the detenu is conversant with, vitiated the order passed by the detaining authority.

9. It is a trite law that personal liberty protected under Article 21 of Constitution of India is so sacrosanct and so high in the scale of Constitutional values that it is the obligation of the detaining authority to show that the impugned detention meticulously accords with the procedure established by law. Preventive detention is preventive and



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not punitive. Hence we find that the order passed by the detaining authority is required to be set aside.

10. In the result, this habeas corpus petition is allowed and the impugned detention order dated 22.11.2022 bearing reference BCDFGISSSV No.427/2022 made by the second respondent is set aside and the detenu Thiru.Mani @ Meen Mani, aged 27 years, son of Thiru.Sekar, 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
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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.



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3.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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