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H.C.P.No.2711 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 26.06.2023**

**Coram**

**THE HONOURABLE MR.JUSTICE M.SUNDAR  
and  
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

**H.C.P.No.2711 of 2022**

K.Sreenivasan

S/o.Kalyaperumal

.. Petitioner

VS

1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.

2.The District Collector and District Magistrate,  
Coimbatore District, Coimbatore.

3.The Superintendent of Police,  
Coimbatore District, Coimbatore.

4.The Superintendent of Prison,  
Central Prison, Coimbatore,  
Coimbatore District.

5.The Inspector of Police,  
Periyanaickenpalayam Police Station,  
Coimbatore District.

.. Respondents

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 relating to the petitioner's detention order dated 07.11.2022, on the file of the second respondent herein made in proceedings Memo



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Cr.M.P.No.33/D.O/2022/E1, "Drug Offender", quash the same as illegal and consequently, direct the respondents herein to produce the detenu viz., S.Sivaraman S/o.Sreenivasan, aged 22 years, now detained in Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.K.Prabhakaran  
for Mr.G.Jaisivaramaraj  
For Respondents : Mr.E.Raj Thilak,  
Additional Public Prosecutor  
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### **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 father of detenu assailing a 'preventive detention order dated 07.11.2022 bearing reference Cr.M.P.No.33/D.O/2022/E1' [hereinafter 'impugned preventive detention order' for the sake of convenience and brevity]. To be noted, fifth 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



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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.

3. There is one adverse case and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.657 of 2022 on the file of Periyanaickenpalayam Police Station for alleged offences under Sections 8(c) r/w 20(b)(ii)(B), 22(b), 22(c), 27(a) and 25 of 'The Narcotic Drugs and Psychotropic Substances Act, 1985' [hereinafter 'NDPS Act' 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.K.Prabhakaran, learned counsel appearing on behalf of 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 have been raised/urged but in the hearing, Mr.K.Prabhakaran, learned counsel appearing on behalf of counsel on record for petitioner predicated his campaign against the impugned preventive detention order on one point and that one point is, the full report under Section 57 of the NDPS Act furnished to the detenu at pages 46 to 52 of the grounds booklet is not readable.

6. We had the benefit of perusing the grounds booklet served on the detenu. We find no reason to disagree with the learned counsel appearing on behalf of counsel on record for petitioner. We also notice that the full report under Section 57 of the NDPS Act is a very important and vital document as the ground case in the case on hand i.e., ground case *qua* impugned preventive detention order is one under NDPS Act and the impugned preventive detention order itself has been made by branding the detenu as a drug offender within the meaning of Section 2(e) of Act 14 of 1982. As the vital document is not legible, we have no hesitation in agreeing with the submission of learned counsel appearing on behalf of counsel on record for petitioner that the right of the detenu to make an effective representation *qua* impugned preventive detention order has



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been impaired. To be noted, the right of a detenu to make an effective representation is a sacrosanct constitutional right ingrained in Clause 5 of Article 22 of the Constitution of India. We find that this constitutional safeguard ingrained in Article 22(5) of the Constitution of India has been impaired in the case on hand owing to pages 46 to 52 of the grounds booklet being not readable. As the sacrosanct constitutional right of the detenu is impaired, the sequitur is impugned preventive detention order deserves to be dislodged.

Ergo, the sequitur is, captioned HCP is allowed. Impugned detention order dated 07.11.2022 bearing reference Cr.M.P.No.33/D.O/2022/E1 made by the second respondent is set aside and the detenu Thiru.S.Sivaraman, aged 22 years, son of Thiru.Sreenivasan, 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.]  
26.06.2023

Index : Yes

Neutral Citation : Yes

gm

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



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

gm

To

- 1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
Coimbatore District, Coimbatore.
- 3.The Superintendent of Police,  
Coimbatore District, Coimbatore.
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Central Prison, Coimbatore,  
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- 5.The Inspector of Police,  
Periyanaickenpalayam Police Station,  
Coimbatore District.
- 6.The Public Prosecutor,  
High Court, Madras.

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