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H.C.P.No.2700 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

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

H.C.P.No.2700 of 2022

Usha
W/o.Suresh

.. Petitioner /
Wife of detenue

Vs

1. Government of Tamil Nadu
rep. By its Additional Secretary
Home, Prohibition and Excise (XVI) Department
Fort St.George
Chennai – 600 009
2. The District Magistrate & District Collector
Tiruvannamalai District
Tiruvannamalai
3. The Superintendent of Police
Office of the Superintendent of Police
Tiruvannamalai District
Tiruvannamalai
4. The Superintendent of Central Prison
Central Prison, Vellore
Vellore District

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5. The Inspector of Police

Veraiyur Police Station

Veraiyur, Tiruvannamalai District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus calling of the records in detention order in D.O.No.106/2022 – C2 dated 14.11.2022 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of petitioner Thiru.Suresh, son of Arumugam, male aged about 43 years, the detenu now confined in Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.K.T.S.Sivakumar

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 14.11.2022 bearing reference D.O.No.106/2022-C2' [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 the impugned preventive detention order has been made by second respondent.

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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 detenue is a 'Bootlegger' within the meaning of Section 2(b) of Act 14 of 1982.

3. There are five adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.324 of 2022 on the file of Veraiyur Police Station for alleged an offence under Section 4(1)(aaa) read with Section 4(1-A)(ii) of Tamil Nadu Prohibition Act, 1937. 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.T.S.Sivakumar, learned counsel on record for petitioner and Mr.E.Raj Thilak, learned State Additional Public Prosecutor 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 page 111 of the grounds booklet which is remand order dated 16.10.2022. No Tamil translation of this document has been furnished to the detenu. We had the benefit of perusing the booklet. We also noticed that remand order forms part of the grounds 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 VIII Standard and he is a school drop out. We are also informed that the detenu is conversant only with Tamil. We remind ourselves of



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Powanammal case i.e., ***Powanammal Vs. State of Tamil 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 remand order which has been relied on as part of the grounds of detention qua impugned detention order is crucial document and not furnishing translation of the same in Tamil, the



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alone 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 14.11.2022 bearing reference D.O.No.106/2022-C2 made by the second respondent is set aside and the detenu Thiru.Suresh, aged 43 years, son of Thiru.Arumugam 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.)

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Index : Yes

Speaking order

Neutral Citation : Yes

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



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To

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5. The Inspector of Police
Veraiyur Police Station
Veraiyur, Tiruvannamalai District
6. The Public Prosecutor
Madras High Court, Chennai



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

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