



HCP(MD)No.659 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.659 of 2023

Ranjitha

: Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 9.

2.The District Collector and the District Magistrate,
Nagapattinam District,
Nagapattinam.

3.The Superintendent,
Central Prison,
Tiruchirappalli District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records made in C.O.C.No. 17/2023, dated 17.04.2023 on the file of the 2nd respondent and quash the



HCP(MD)No.659 of 2023

same and consequently direct the respondents to produce the petitioner's husband namely "Puhazhaendran, S/o.Motta Murugan @ Murugaiyan, aged about 29 years", who is now detained as a detenu at Central Prison Tiruchirappalli or his corpus or body before this Court and set him at liberty forthwith.

For Petitioner : Mr.J.Sankara Pandain

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

This 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by wife of the detenu assailing a 'preventive detention order dated 17.04.2023 bearing reference C.O.C.No.17/2023' [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience]. To be noted, second respondent is the detaining authority as impugned preventive detention order has been made by second respondent. To be noted, sponsoring authority has not been arrayed as a respondent and we find that Station House Officer of 'Kilvelur Police Station' is the sponsoring authority [hereinafter 'Sponsoring Authority' for the sake of convenience and clarity].



HCP(MD)No.659 of 2023

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.

3. There are two adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.193 of 2023 on the file of Kilvelur Police Station for alleged offences under Sections 448, 294(b), 506(ii), 285 and 436 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity]. Considering the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix of the case.

4. Mr.J.Sankara Pandian, learned counsel on record for petitioner and Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor for all respondents are before us.



HCP(MD)No.659 of 2023

5. In the support affidavit *qua* captioned HCP though several grounds have been raised, learned counsel for HCP petitioner predicated his campaign against the impugned Preventive Detention Order in the final hearing board on one point and the one point is that the subjective satisfaction arrived at and recorded by the Detaining Authority is impaired. Elaborating on this point, learned counsel drew our attention to a portion of paragraph No.4 of the grounds of impugned preventive detention order, which reads as follows:

“4..... The sponsoring authority has stated that Tmt.Vijaya, W/o.Motta Murugan @ Murugaiyan mother of the detenu Thiru.Puhazhendran, Male, aged 29/2023, S/o.Motta Murugan @ Murugaiyan is taking steps to take him out on bail by filing bail application for the ground case before the appropriate court.”

6. Adverting to the aforesaid portion, learned counsel submitted that there is no material to support the aforementioned averment in the grounds of impugned preventive detention order, which is one of the determinant on the basis of which subjective satisfaction *qua* imminent possibility of detenu being enlarged on bail has been recorded. As the above points turns heavily



HCP(MD)No.659 of 2023

on records before this Court, learned State Additional Public Prosecutor really does not have much of say.

7. We have carefully considered the aforementioned submissions and we find that the aforementioned averment is not supported by any document. This leads to two points which vitiated the impugned preventive detention order. First point is non-application of mind as the detaining authority has made an averment regarding the steps being taken by the mother of the detenu for taking him out on bail without any material before the detaining authority. The second point is the subjective satisfaction recorded by the detaining authority *qua* imminent possibility of detenu being enlarged on bail is impaired. As the impugned preventive detention order is vitiated on the twin grounds set out herein, we have no hesitation in saying that the impugned preventive detention order deserves to be dislodged in this habeas drill on hand.

8. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 17.04.2023 bearing reference C.O.C.No. 17/2023 made by the second respondent is set aside and the detenu



HCP(MD)No.659 of 2023

Thiru.Puhazhendran, male, aged 29 years, son of Thiru.Motta Murugan @
Murugaiyan, 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.]
16.10.2023

Index : Yes
Neutral Citation : Yes
vsm

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



HCP(MD)No.659 of 2023

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Government of Tamil Nadu,
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- 2.The District Collector and District Magistrate,
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Nagapattinam.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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HCP(MD)No.659 of 2023

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