



HCP(MD)No.931 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.931 of 2023

R.Rengarajan

: Petitioner

Vs.

1.The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

2.The Commissioner of Police,
Trichirappalli City,
Trichy.

3. The Inspector of Police,
City Crime Branch,
Trichy City.
(Crime No.9 of 2021)



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4.The Superintendent of Prison,
Central Prison,
Trichirappalli.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, directing the respondents to produce the person or body of the detenu namely 'Panchapakesan' aged about 44/2023 years son of Rengarajan before this Hon'ble Court who is now detained in the Central Prison, Trichy in pursuant to the detention order passed by the 2nd respondent in **C.No.57/Detention/C.P.O/T.C/2023 dated 22.06.2023** and to call for the records and quash the same and set the detenu at liberty forthwith.

For Petitioner : Mr.J.M.Arvind Paulraj, for
Mr.P.Chandrasekaran

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

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

This 'Habeas Corpus Petition' ['HCP' for the sake of brevity] has been filed by father of the detenu assailing a 'preventive detention order dated 22.06.2023 bearing reference



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C.No.57/Detention/C.P.O/T.C/2023' [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience]. To be noted, Inspector of Police, City Crime Branch, Trichy City [third respondent] is the sponsoring authority [hereinafter 'Sponsoring Authority' for the sake of convenience and clarity] and second respondent [Commissioner of Police] is the detaining authority as impugned preventive detention order has been made by second respondent.

2.Impugned preventive 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 three adverse cases and one ground case. The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No.09 of 2021 on the file of City Crime Branch, Tiruchirappalli for the alleged offences



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under Sections 406, 420, 465, 468, 471, 109 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 preventive detention order, it is not necessary to delve into the factual matrix of the case.

4.Mr.J.M.Arvind Paulraj, learned Counsel representing the counsel on record for petitioner and Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor for all respondents are before us.

5.In the support affidavit *qua* captioned HCP several grounds have been raised, but learned Counsel for petitioner predicated his campaign against the impugned Preventive Detention Order on the point that the detenu was arrested and produced before the Judicial Magistrate, No.I, Tiruchirappalli and remanded to judicial custody in the ground case on 22.03.2023 but the impugned preventive detention order has been made only on 22.06.2023 resulting in live and proximate link between grounds and purpose of detention getting snapped.



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6. Mr. A. Thiruvadi Kumar, learned State Additional Public Prosecutor, submits to the contrary by saying that materials had to be collected and time was consumed in this exercise. Considering the facts / circumstances of the case on hand and nature of ground case, we find that this explanation of learned Prosecutor is unacceptable.

7. We remind ourselves of **Sushanta Kumar Banik's** case **[Sushanta Kumar Banik Vs. State of Tripura & others reported in 2022 LiveLaw (SC) 813 : 2022 SCC OnLine SC 1333]**. To be noted, **Banik** case arose under 'Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988' [hereinafter 'PIT NDPS Act' for the sake of brevity] in Tirupura, wherein after considering a proposal by a Sponsoring Authority and after noticing the trajectory the matter took, Hon'ble Supreme Court held that the 'live and proximate link between grounds of detention and purpose of detention snapping' point should be examined on a case to case basis. Hon'ble Supreme Court has held in **Banik** case law that this point has two facets. One facet is 'unreasonable delay' and the other facet is 'unexplained delay'. We find that the captioned matter falls under latter facet i.e., unexplained delay.



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8.To be noted, **Banik** case has been respectfully followed by this Court in **Gomathi Vs.The Principal Secretary to Government and others** reported vide Neutral Citation of Madras High Court being **2023/MHC/334, Sadik Basha Yusuf Vs. The State of Tamil Nadu and others** reported vide Neutral Citation of Madras High Court being **2023/MHC/733, Sangeetha Vs. The Secretary to the Government and others** reported vide Neutral Citation of Madras High Court being **2023:MHC:1110, N.Anitha Vs. The Secretary to Government and others** reported vide Neutral Citation of Madras High Court being **2023:MHC:1159** and a series of similar orders in HCP cases.

9.To be noted, the adverse case are in (i) Crime No.456 of 2019 on the file of Ariyamangalam Police Station for alleged offences under Sections 441, 427 and 506(i) of IPC [occurrence was on 23.12.2019]; (ii) Crime No.03 of 2021 on the file of City Crime Branch, Tiruchirappalli for alleged offences under Sections 120(B), 420, 465, 466, 467, 468, 471 of IPC [occurrence was on 31.12.2019] and (iii) Crime No.07 of 2023 on the file of District Crime Branch, Tiruchirappalli for alleged offences under Sections 419, 420, 467,



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468, 471, 120(B) of IPC [occurrence was on 03.04.2023] and therefore time consumed remains unexplained.

10.Before concluding, we also remind ourselves that preventive detention is not a punishment and HCP is a high prerogative writ.

11.Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 22.06.2023 bearing reference C.No.57/Detention/C.P.O/T.C/2023 made by the second respondent is set aside and the detenu Thiru.Panchapakesan, male, aged 44 years, son of Thiru.Rengarajan, 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.]
19.10.2023

Index : Yes
Internet : Yes
Neutral Citation : Yes
MR



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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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and
R.SAKTHIVEL, J.

MR

ORDER MADE IN
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