



HCP(MD)No.997 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.11.2023

CORAM :

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

**HCP(MD)No.997 of 2023**

Ramamoorthi

... Petitioner

vs.

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.

2. The Commissioner of Police,  
Madurai City, Madurai.

3. The Superintendent,  
District Jail, Dindigul,  
Dindigul District.

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

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, calling for the records in pursuant to the proceedings of the 2<sup>nd</sup> respondent in Detention Order in No.53/BCDFGIISSSV/2023 dated 30.06.2023 to detain the detenu namely Arimani, S/o. Ramamoorthy, aged 22 years at Central Prison,



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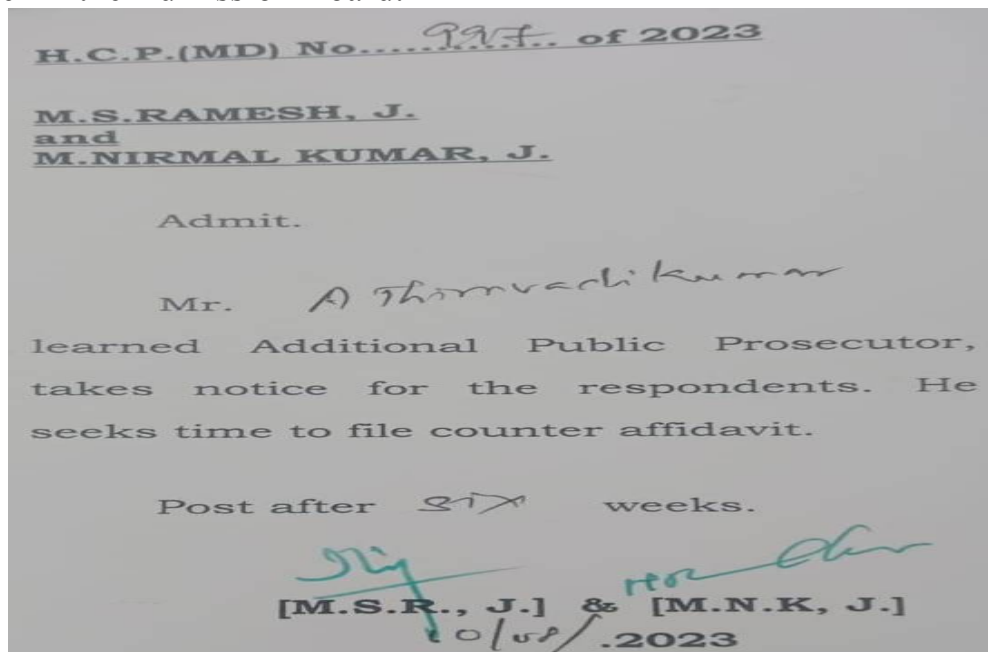
Madurai, and quash the same and consequently direct the respondents to produce the detenu namely, Arimani, S/o. Ramamoorthi aged 22 years who is now detained in District Jail, Dindigul before this Court and set him at liberty.

For Petitioner : Mr.K.Sathish Kumar  
For Respondents : Mr.A.Thiruvadi Kumar  
Additional Public Prosecutor

### **ORDER**

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

When the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity] was listed in the Admission Board on 10.08.2023, a Hon'ble Coordinate Division Bench made the following order in the Admission Board:





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2. It has now become necessary to set out a thumbnail sketch of factual matrix and we do so in the paragraphs infra.

3. Today, the captioned matter is in the Final Hearing Board.

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

5. Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] has been filed by the father of the detenu assailing the 'preventive detention order dated 30.06.2023 bearing reference No.53/BCDFGISSSV/2023' [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience]. To be noted, sponsoring authority has not been arrayed as a respondent and we find that Station House Officer of V2 Avaniyapuram Police Station, is the sponsoring authority [hereinafter 'sponsoring authority' for convenience and brevity] and 2<sup>nd</sup> respondent is the detaining authority as impugned preventive detention order has been made by 2<sup>nd</sup> respondent.



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6. 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.

7. 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.419 of 2023 on the file of V2 Avaniyapuram Police Station, for alleged offence under Sections 392 r/w 397, 506(ii) of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity].

8. In the supporting affidavit qua captioned HCP, several points have been urged / raised. In the final hearing board, Mr.K.Sathish



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Kumar, learned counsel predicated his campaign against the impugned preventive detention order on the point that subjective satisfaction arrived by the detaining authority as regards imminent possibility of detenu being enlarged on bail is impaired. Learned counsel for petitioner elaborating on this point, drew our attention to a portion of paragraph 5 of the grounds of impugned preventive detention order which reads as follows:

*'.... I am also aware that bail was granted by the Principal Sessions Judge, Madurai, in Crl.M.P.No. 2566/2022 on 14.06.2022 to one accused Jeevamani @ Theepetti concerned in the case in C5 Karimedu PS Cr.No.345/2022 u/w 392 r/w 397, 506(ii) IPC, which is a case similar to that of the above said ground case.*

*Hence, I am satisfied that there is a real possibility of his (Arimani, s/o.Ramamoorthy) coming out on bail through the pending bail application before the court concerned in the ground case, since in a case similar to that of the ground case, bail has been granted by the court concerned to the accused. ....'*



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9. Adverting to the aforesaid portion, learned counsel submitted that Jeevamani's case bail order has been furnished to the detenu as part of the booklet. This Bench had the benefit of perusing the Jeevamani's case bail order being bail order dated 14.06.2022 in CrI.M.P.No.2566/2022 on the file of Principal District and Sessions Judge, Madurai.

10. Adverting to Jeevamani's case bail order more particularly paragraph 6 therein, learned counsel submitted that in Jeevamani's case, though there were four previous cases two of them were disposed of and two other cases are petty cases. Therefore, the subjective satisfaction as regards imminent possibility of detenu being enlarged on bail arrived at by the detaining authority is impaired is learned counsel say.

11. In response to the above argument, learned Prosecutor submitted that the alleged offences in Jeevamani's case as well as ground case in the case on hand are broadly comparable. Learned Prosecutor also submitted that in the case on hand, there are as many as three adverse cases.



12. This Court has repeatedly held that when it comes to subjective satisfaction being impaired point, it is necessary to look at the parameters which weighed in the mind of the bail court while granting bail in the similar case. In Jeevamani's case, out of four previous cases, two have been disposed of and two others are petty cases is certainly one of the determinants which has weighed in the mind of the bail court in granting bail in Jeevamani's case. In this view of the matter, we find that in complete contradistinction, in the case on hand even according to the grounds of impugned preventive detention order, out of the three adverse cases which are pending, two are under Sections 147, 148, 294(b), 323, 324, 307 of IPC and one is for alleged offences under Sections 147, 148, 294(b), 324, 506(ii) of IPC. These cases definitely do not fall in the category of petty cases. Therefore, this Court has a little difficulty i.e., no difficulty in sustaining the submission of learned counsel for petitioner that subjective satisfaction arrived at by the detaining authority as regards imminent possibility of detenu is impaired as Jeevamani's case and the ground case are not comparable and comparing the same reminds us of age old adages 'comparing Apples and Oranges' and 'comparing Cheese and Chalk'. This means that the impugned preventive detention



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order is vitiated and becomes vulnerable for being dislodged in a habeas legal drill on hand. We therefore dislodge the impugned preventive detention order in this habeas legal drill.

13. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 30.06.2023 bearing reference No. 53/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Arimani, son of Ramamoorthi, aged 22 years, 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.)  
06.11.2023

Index : Yes / No  
Neutral Citation : Yes / No  
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**P.S: Registry to forthwith communicate this order to Jail authorities in District Prison, Dindigul.**

To

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai-9.

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2. The Commissioner of Police,  
Madurai City, Madurai.

3. The Superintendent,  
District Jail, Dindigul,  
Dindigul District.

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

5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

6. The Joint Secretary to Government,  
Public (Law and Order) Department,  
Secretariat, Chennai.



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

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**ORDER MADE IN**  
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**DATED : 06.11.2023**