



HCP(MD)No.1126 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1126 of 2023

Saroja

: Petitioner

Vs.

1.State of Tamil Nadu,
Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 9.

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

3.The Superintendent,
Central Prison,
Tiruchirappalli.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records relating to the Detention order passed by the 2nd respondent in his proceedings Cr.M.P.No.



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10/2023 dated 15.06.2023 and quash the same and direct the respondents to produce the person or body of the detenu namely Manikandan, S/o.Ramaraj, aged 23 years, (now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar

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 mother of the detenu assailing a 'preventive detention order dated 15.06.2023 bearing reference Cr.M.P.No.10/2023' [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 'Perambalur Police Station' is the sponsoring authority [hereinafter 'Sponsoring Authority' for the sake of convenience and clarity].



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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 detenu is a 'Goonda' within the meaning of Section 2(f) 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.324 of 2023 on the file of Perambalur Police Station for alleged offences under Sections 294(b), 324, 448, 353, 354(B), 506(ii), 376 and 511 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] and Section 3 of Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2008. Considering the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix of the case.



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4. Mr.N.Anandakumar, learned 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 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.5 of the grounds of impugned preventive detention order, which reads as follows:

“5. However, Tmt.Saroja, mother of the accused Thiur.Manikandan is taking action to take out her son Thiru.Manikandan on bail by filing another bail application before the appropriate court for the ground registered case registered in Perambalur Police Station Crime Number.324/2023.....”



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 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



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dislodged in this habeas drill on hand.

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8. Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 15.06.2023 bearing reference Cr.M.P.No. 10/2023 made by the second respondent is set aside and the detenu Thiru.Manikandan, aged 23 years, son of Thiru.Ramaraj, 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.]
18.10.2023

Index : Yes
Neutral Citation : Yes
vsm

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



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

M.SUNDAR, J.



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