



HCP(MD)No.1299 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1299 of 2023

A.Uma

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai – 9.
- 2.The Deputy Inspector General of Police
Tirunelveli Range & the Commissioner of Police,
Tirunelveli District.
- 3.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.



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4.The Inspector of Police,
Palayamkottai Police Station,
Palayamkottai,
Tirunelveli District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records relating to the order of detention passed by the second respondent in his proceedings in Detention Order No.47/BCDFGISSSV/2023 dated 27.09.2023 and quash the same and direct the respondents to produce the body or person of the detainee namely Sandru, S/o.Anbu aged about 23 years (now detained at Central Prison, Palayamkottai) before this Court and set him at liberty.

For Petitioner : Mr.R.Anand

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

O R D E R

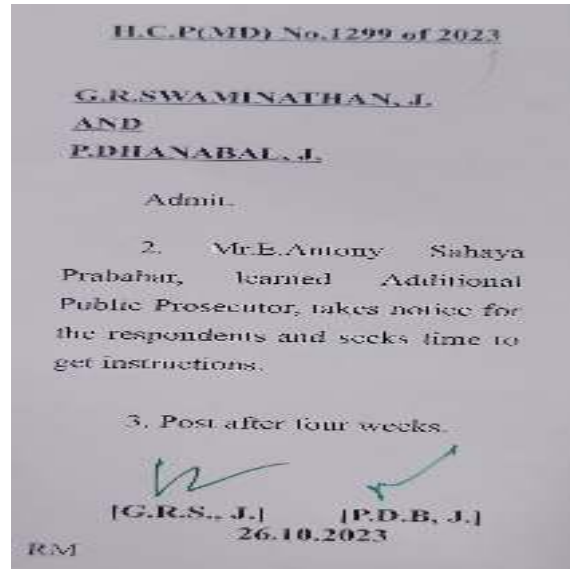
[Order of the Court was made by **M.SUNDAR, J.**]

When the captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of brevity] was listed in the Admission Board on



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26.10.2023, a Hon'ble Predecessor Coordinate Division Bench made the following order and a scanned reproduction of the same is as follows:



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, captioned matter is in the Final Hearing Board.

4.Mr.R.Anand, learned counsel on record for petitioner and Mr.S.Ravi, learned State Additional Public Prosecutor for all respondents are before us.



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5.Captioned HCP has been filed by mother of the detenu assailing a 'preventive detention order dated 27.09.2023 bearing reference No.47/BCDFGISSSV/2023' [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience]. To be noted, fourth respondent is the sponsoring authority and second respondent is the detaining authority as impugned preventive detention order has been made by second respondent.

6.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.

7.The ground case which constitutes sole substratum of the impugned preventive detention order is Crime No.1034 of 2023 on the file of Palayamkottai Police Station for alleged offences under



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Sections 147, 148, 302, 506(ii) and 109 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] which was subsequently altered into Sections 147, 148, 302, 506(ii) and 109 of IPC r/w. 3(1)(r), 3(1)(s), 3(2)(v) of 'The Schedule Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989' [hereinafter 'SC/ST (PoA) Act' for the sake of convenience]. Considering the nature of the challenge to the impugned detention order, it is not necessary to delve into the factual matrix of the case.

8.Though several points have been raised in the support affidavit, Mr.R.Anand, learned Counsel on record for the HCP petitioner predicated his campaign against the impugned preventive detention order on one point in the final hearing board and this one point turns on Section 8(1) of Act 14 of 1982.

9.Learned Counsel drew our attention to the impugned preventive detention order dated 27.09.2023 and pointed out that the same has been duly served on the detenu on the next day by 04.30 p.m. ie., on 28.09.2023 at 04.30 p.m. The detention order together with the rubber stamp is as follows:



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Office of the
Commissioner of Police,
Tirunelveli City.

Dated: 27.09.2023. 13

No. BCDFGISSSV/2023

DETENTION ORDER

WHEREAS I, Pravesh Kumar, IPS, Deputy Inspector General of Police, Tirunelveli Range and Commissioner of Police, Tirunelveli City (Full Additional Charge) on the materials placed before me, am satisfied that Thiru.Sandru, male, aged 23/2023, S/o Anbu, D.No.14B, Kulasirai Nayanar Street, Moolikulam, Palayamkottai, Tirunelveli is a "Goonda" as contemplated under section 2(f) of the Tamil Nadu Act 14 of 1982 and

2. WHEREAS the aforesaid individual is found indulging in activities prejudicial to the maintenance of public order, the details of which are set out in detail in the grounds of detention.

3. Now, therefore, in exercise of the powers conferred by sub section (1) of Section 3 of 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 14 of 1982) read with the order issued by the government in G.O.(D).No.186, Home, Prohibition and Excise (XVI) Department, dated 13th July 2023 under sub section (2) of Section 3 of the said Act, I hereby direct that the said Thiru.Sandru, male, aged 23/2023, S/o Anbu, D.No.14B, Kulasirai Nayanar Street, Moolikulam, Palayamkottai, Tirunelveli who is a Goonda be detained at Central Prison, Palayamkottai.

[Signature]
A. Chandrasekaran
Deputy Inspector General of Police
Tirunelveli Range
27.09.2023
13

[Signature]
S. H. B. S.

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11.The aforementioned records would demonstrate that there is a direct and clear breach of Section 8(1) of Act 14 of 1982 is learned Counsel's say.

12.As the matter turns heavily on records, learned Prosecutor really does not have much of a say.

13.In this view of the matter it will suffice to say that the aforementioned point is directly and squarely covered in all say by an order made by this Division Bench in ***Vasanthi's*** case [***Vasanthi Vs. The Additional Chief Secretary to Government and others***] reported in ***2023:MHC:4028*** [Neutral Citation of Madras High Court].

14.Following ***Vasanthi's*** case principle, we have no hesitation in dislodging the impugned preventive detention order in the captioned matter in the habeas legal drill on hand.

15.Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 27.09.2023 bearing reference



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No.47/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Sandru, male, aged 23 years, son of Anbu, 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.]

04.12.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

MR

Post Script: Registry to forthwith communicate this order to Jail authorities in Central Prison, Palayamkottai. All concerned are to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



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To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Fort St. George,
Chennai – 9.
- 2.The Deputy Inspector General of Police
Tirunelveli Range & the Commissioner of Police,
Tirunelveli District.
- 3.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli District.
- 4.The Inspector of Police,
Palayamkottai Police Station,
Palayamkottai,
Tirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

MR

ORDER MADE IN
H.C.P.(MD)No.1299 of 2023

04.12.2023