



HCP(MD)No.1330 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

H.C.P.(MD)No.1330 of 2023

Shanmugalakshmi

: Petitioner

Vs.

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

2.The Deputy Inspector General of Police
and Commissioner of Police,
(Tirunelveli Range),
O/o. Commissioner of Police,
Tirunelveli City.

3.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.1034/2023)



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4.The Superintendent of Prison,

Central Prison,

Palayamkottai,

Tirunelveli City.

: 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 in C.No.40/BCDFGISSSV/2023 dated 25.09.2023 and quash the same and consequently direct the respondents to produce the body or person of the detainee namely Vigneshwar alias Vikki, son of Murugan aged about 27 years now detained as “Goonda” at Central Prison, Palayamkottai and set him at liberty forthwith.

For Petitioner : Mr.A.Mohamed Hashim

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' ['HCP' for the sake of brevity] was listed before this Bench in the Admission Board on 03.11.2023 and this Bench made the following order:



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'H.C.P(MD)No.1330 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

O R D E R

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

Captioned Habeas Corpus Petition has been filed in this Court on 30.10.2023 inter alia assailing a 'detention order dated 25.09.2023, bearing reference No. 40/BCDFGISSSV/2023' [hereinafter 'impugned preventive detention order' for the sake of convenience, clarity and brevity] made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience].

2.*To be noted, the wife of the detenu is the petitioner.*

3.*Mr.N.Mohideen Basha, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 147, 148, 302, 506(ii) and 109 of 'the Indian Penal Code, 1860 (Act 45 of 1860)' [hereinafter 'IPC' for the sake of brevity] and altered into Sections 147, 148, 302, 506(ii), 109 of IPC r/w. Sections 3(1)(r), 3(1)(s), 3(2)(v) of 'the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No.33 of 1989)' [hereinafter 'SC & ST (PoA) Act' for the sake of brevity and convenience] in Crime No.1034 of 2023 on the file of Palayamkottai Police Station.*

4.*The aforementioned impugned preventive detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) 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*



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and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5.The impugned preventive detention order has been assailed inter alia on the ground that the respondents have not furnished the booklet containing all the supporting documents within 5 days as stipulated under Section 8(1) of Act 14 of 1982, despite repeated requests.

6.Prima facie case made out for admission. Admit. Issue Rule nisi returnable by four [4] weeks.

7.Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor accepts notice for all respondents. List the captioned Habeas Corpus Petition accordingly.'

2.As the aforementioned Admission Board order captures all essentials ie., essentials imperative for appreciating this final order we refrain from setting out the facts again. Suffice to say that the aforementioned Admission Board order dated 03.11.2023 shall now be read as an integral part and parcel of this final order. This also means that the short forms, abbreviations and short references used in the Admission Board order will continue to be used in the instant final order also for the sake of convenience and clarity.

3.Mr.A.Mohamed Hashim, learned counsel on record for petitioner and Mr.S.Ravi, learned State Additional Public Prosecutor for all respondents are before us.



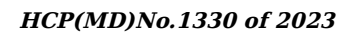
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4.The ground case which constitutes sole substratum of the impugned preventive detention order is Crime No.1034 of 2023 on the file of Palayamkottai Police Station for alleged offences under Sections 147, 148, 302, 506(ii) and 109 of 'The Indian Penal 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.

5.Though several points have been raised in the support affidavit, Mr.A.Mohamed Hashim, 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.

6.Learned Counsel drew our attention to the impugned preventive detention order dated 25.09.2023 and pointed out that the



Time: 10:50 Time: 7918 26-09-2023 No 40/BCDFGSSSV/2023 OLD VILLU	Office of the Commissioner of Police, Tirunelveli City. Dated: 25.09.2023.
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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.Vigneshwar alias Vikki, male, aged 27/2023, S/o Murugan, D.No.3/2, Pugalthunai Nayanar Street, Rajakudieruppu, 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.

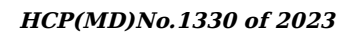
3. Now, therefore, in exercise of the powers conferred by sub section (1) of Section 3 of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video 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.Vigneshwar alias Vikki, male, aged 27/2023, S/o Murugan, D.No.3/2, Pugalthunai Nayanar Street, Rajakudieruppu, Palayamkottai, Tirunelveli who is a Goonda be detained at Central Prison, Palayamkottai.

இந்த தீர்மானம் மேலே
குறிப்பிடப்பட்டுள்ள விவரங்களை
பற்றி மேலதிக சிபிஐஐஐ தீர்மானம்.
11.26.09.2023. கையொப்பம் 101/50

(Signature)
கணினித் துறைமுகம்

இதற்குமுன்னிருந்து கையொப்பம்
பெறப்பட்டிருக்கும் விவரங்களை கருதுவதற்கு
கணி முடிவாகவும் எந்திர முடிவாகவும்.

(Signature)
தலைவர் கணினித் துறைமுகம்
தலைவர் கணினித் துறைமுகம்.

[illegible]



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8.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.

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

10.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].

11.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.

12.Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 25.09.2023 bearing reference



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No.40/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Vigneshwar alias Vikki, male, aged 27 years, son of Murugan, 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

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O/o. Commissioner of Police,
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3.The Inspector of Police,
Palayamkottai Police Station,
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4.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli City.

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.1330 of 2023

04.12.2023