



H.C.P(MD)No.1427 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.12.2023

Coram

THE HON'BLE MR.JUSTICE **M.SUNDAR**
and
THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

H.C.P(MD)No.1427 of 2023

B.Ponesakki .. Petitioner/wife of the detenue

VS

1.State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Habeas Corpus calling for the entire
records connected with the detention order passed in M.H.S.Confdl



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No.93/2023 dated 30.08.2023 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely the petitioner's husband ie., Balasubramanian alias Bala, aged about 41 years, S/o.Arunachalathevar, now detained at the Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and clarity] was listed in the admission board before this Bench on 21.11.2023 and the following order was made and a scanned reproduction of the same is as follows:



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H.C.P.[MD]No.1427 of 2023

M.SUNDAR, J.

and

R.SAKTHIVEL., J.

ORDER

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

Captioned Habeas Corpus Petition has been filed in this Court on 15.11.2023 *inter alia* assailing a 'detention order dated 30.08.2023, bearing M.H.S,Confdl No.93 of 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, wife of the detenu is the petitioner.

3. Mr.N.Pragalathan, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case *qua* the detenu is Crime No.205 of 2023 on the file of Tirunelveli Taluk Police Station registered under Sections 294(b), 323, 307, 506(i) and



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109 of 'the Indian Penal Code, 1860 (Act 45 of 1860)' [hereinafter 'IPC' for the sake of brevity] and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. The aforementioned impugned preventive detention order has been made on the premise that the detainee is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Gamblers, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Stun-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].

5. The impugned preventive detention order has been assailed *inter alia* on the ground that a similar case bail order relied on in the grounds booklet furnished to the detainee is not similar in nature.

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



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


[M.S., J.] & [R.S.V., J.]
21.11.2023

VSM

2.The aforementioned admission board order before this Bench captures all essentials, i.e., all facts imperative for appreciating this final order and therefore, we are not setting out the same again in this final order. Suffice to say that aforementioned admission board order dated 21.11.2023 shall now be read as an integral part and parcel of this final order. This means that the abbreviations, short forms and short references used in the aforementioned admission board order will



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continue to be used in the instant final order also for the sake of convenience and clarity.

3.Habeas legal drill on hand is fairly simple, as both sides submit in unison that captioned matter is directly covered by P.Geetha's case ie., order dated 04.12.2023 made in H.C.P(MD)No.1068 of 2023 by this Court and a scanned reproduction of the same is as follows:



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H.C.P(MD)No.1068 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.1068 of 2023

R.Geetha

: Petitioner

Vs.

1.State of Tamil Nadu,

Rep. by the Additional Chief Secretary to Government,

Home, Prohibition and Excise Department,

Secretariat,

Chennai - 600 009.

2.The District Collector and District Magistrate,

Tirunelveli District,

Tirunelveli.

3.The Superintendent of Prison,

Central Prison,

Palayamkottai,

Tirunelveli.

: Respondents

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HCP(MD)No.1427 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the entire records connected with the detention order passed in M.H.S.Confdl.No. 75/2023 dated 31.07.2023 on the file of the second respondent herein and quash the same and direct the respondents to produce the detainee or body of the detainee namely the petitioner's son i.e., Sarath, aged about 25 years S/o. Sasi, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragathan

For Respondents : Mr.S.Ravi

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 24.08.2023, a Hon'ble Predecessor Coordinate Division Bench made the following order and a scanned reproduction of the same is as follows:

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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, captioned matter is in the Final Hearing Board.

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

5.Captioned HCP has been filed by mother of the detenu assailing a 'preventive detention order dated 31.07.2023 bearing reference M.I.S.Candl.No.75/2023 [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience].

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To be noted, sponsoring authority has not been arrayed as a respondent but we find that Station House Officer of 'Moontradaippu Police Station' is the sponsoring authority [hereinafter 'Sponsoring Authority' for the sake of convenience and clarity], 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, Guondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Sham-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 detainee is a 'Guonda' within the meaning of Section 2(f) of Act 14 of 1982.

7.The ground case which constitutes substantial part of substratum of the impugned preventive detention order is Crime No. 71 of 2023 on the file of Moontradaippu Police Station for alleged offences under Sections 427, 395 and 397 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and



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12. We carefully considered the rival submissions.

13. We are inclined to sustain the submission of learned Counsel for HCP petitioner as in the same paragraph i.e., paragraph No.4 in one breath the detaining authority refers to 'arrested' in singular i.e., the solitary case which constitutes the substratum of the impugned preventive detention order and in the same breath in the same paragraph refers to 'arrested' in plural. Therefore it cannot be a mere typographical error. It is a positive articulation by the detaining authority on examination of documents i.e., 'arrested' in plural. It comes to light that the detenu has committed 'arrested' in plural and that has been made the basis for clamping the impugned preventive detention order. Therefore, we sustain the submission of learned Counsel for HCP petitioner and interfere with the impugned preventive detention order. The impugned preventive detention order is being dislodged in the habeas legal drill on hand.

14. Ergo, the sequel to, captioned HCP is allowed. Impugned preventive detention order dated 31.07.2023 bearing reference M.H.S.Cundl No.75/2023 made by the second respondent is set aside and the detenu Thiru.Sarathi, aged 25 years, son of Thiru.Sasi, is



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To

1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009,

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli,

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

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H.C.P(MD)No.1060 of 2023

M.SUNDAR, I
and
R.SAKTHIVEL, I

MR

ORDER MADE IN
H.C.P(MD)No.1060 of 2023

04.12.2023

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4.In the light of the undisputed position that captioned HCP is directly and squarely covered by P.Geetha's case, it is not necessary to delve into other aspects of the matter and suffice to say that impugned preventive detention order in the captioned HCP also deserves to be dislodged on the same point ie., on the same point on which P.Geetha's was allowed.

5.Ergo, the sequitur is, captioned HCP is allowed. Impugned preventive detention order dated 30.08.2023 bearing reference M.H.S.Confdl.No.93/2023 made by the second respondent is set aside and the detenu Thiru.Balasubramanian alias Bala, aged 41 years, son of Thiru.Arunachalathevar, 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.)
20.12.2023

Index : Yes/No

Neutral Citation : Yes/No

ps

Post Script: (i) Registry to forthwith communicate this order to Jail authorities in Central Prison, Palayamkottai.



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(ii) All concerned 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 Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
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 - 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
 - 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
 - 4.The Joint Secretary to Government,
Public (Law and Order) Department,
Secretariat,
Chennai.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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

ps

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