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HCP(MD)No.1394 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.1394 of 2023

Esabella Jeyanti

: 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 entire records relating to the detention order in C.No.48/BCDFGISSSV/2023 dated 27.09.2023 and quash the same and consequently direct the respondents to produce the body or person of the detenu namely Anishbar alias Anish, son of Antony Loyalan aged about 28 years now detained as “Goonda” at Central Prison, Palayamkottai and set him at liberty forthwith.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

O R D E R

[Order of the Court was made by J.NISHA BANU, J.]

The present Habeas Corpus Petition has been filed by the mother of the detenu assailing a 'preventive detention order dated 27.09.2023 bearing reference No.48/BCDFGISSSV/2023' [hereinafter 'impugned preventive detention order' for the sake of brevity and convenience]. To be noted, third respondent is the sponsoring



authority and second respondent is the detaining authority as impugned preventive detention order has been made by second respondent.

2.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.

3.The ground case which constitutes the 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.

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4.Though several points have been raised in the support affidavit, Mr.R.L.Dhilipan Pandian, 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.

5.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 04.50 p.m. ie., on 28.09.2023 at 04.50 p.m. Learned Counsel further pointed out that the grounds booklet has been served on the detenu only on 13.10.2023 [after 16 days of passing the impugned preventive detention order] and submitted that the same is a clear breach of Section 8(1) of Act 14 of 1982.

6.Heard the learned Additional Public Prosecutor appearing for the respondents also.



7.The aforementioned point is directly and squarely covered by an order made by this Court 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].

8.Following **Vasanthi's** case principle, we have no hesitation in setting aside the impugned preventive detention order in the case on hand.

9.Accordingly, this Habeas Corpus Petition is allowed. Impugned preventive detention order dated 27.09.2023 bearing reference No.48/BCDFGISSSV/2023 made by the second respondent is set aside and the detenu Thiru.Anishbar alias Anish, male, aged 28 years, son of Antony Loyalan, 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.

[J.N.B.,J.] & [K.K.R.K.,J.]

02.01.2024

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.

To

- 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,
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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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J.NISHA BANU, J.
and
K.K.RAMAKRISHNAN, J.

MR

ORDER MADE IN
H.C.P.(MD)No.1394 of 2023

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