

H.C.P.No.491 of 2023 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

**H.C.P.Nos.491,546, 547, 548, 549, 551,
552, 553 and 1464 of 2023**

H.C.P.No.491 of 2023

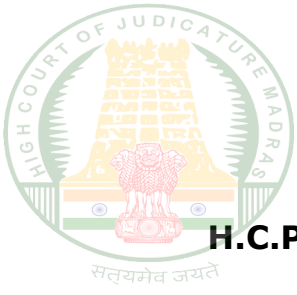
Vinothini

.. Petitioner

Vs

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2.The District Collector and District Magistrate,
Thiruvarur District, Thiruvarur.
- 3.The Superintendent of Police,
Thiruvarur District, Thiruvarur.
- 4.The Inspector of Police,
Koradacherry Police Station,
Thiruvarur District.
- 5.The Superintendent of Prison,
Central Prison, Tiruchirappalli.

.. Respondents



H.C.P.No.491 of 2023 etc

H.C.P.No.546 of 2023

WEB COPY

Arulsevi

.. Petitioner

Vs

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

H.C.P.No.547 of 2023

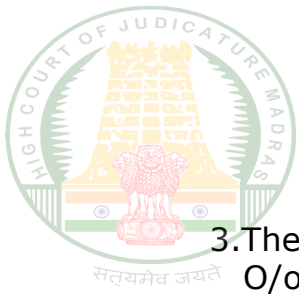
Yuvarani

.. Petitioner

Vs

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.



H.C.P.No.491 of 2023 etc

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

H.C.P.No.548 of 2023

Kalaiselvi

Vs

.. Petitioner

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

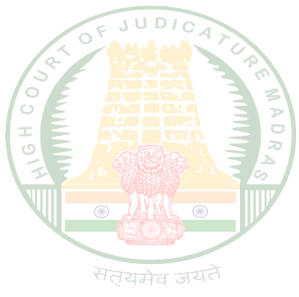
2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents



H.C.P.No.491 of 2023 etc

WEB COPY

H.C.P.No.549 of 2023

Mohanraj

Vs

.. Petitioner

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.
- 3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

H.C.P.No.551 of 2023

Radha

Vs

.. Petitioner

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.

4/51



H.C.P.No.491 of 2023 etc

WEB COPY

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

H.C.P.No.552 of 2023

Sunseya

Vs

.. Petitioner

1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.

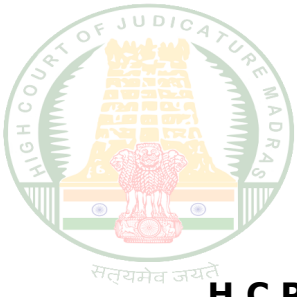
2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents



H.C.P.No.491 of 2023 etc

H.C.P.No.553 of 2023

WEB COPY

Vembu

Vs

.. Petitioner

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.
- 3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.
- 4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

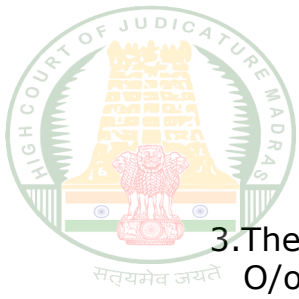
H.C.P.No.1464 of 2023

G.Baby

Vs

.. Petitioner

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai -9.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thiruvarur District.



H.C.P.No.491 of 2023 etc

3.The Superintendent of Police,
O/o. Superintendent of Police,
Thiruvarur District.

4.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

5.The Inspector of Police,
Kudavasal Police Station,
Thiruvarur District.

.. Respondents

Prayer in HCP No. 491 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 06.03.2023 in C.O.C.No.19/2023 against the petitioner's husband Sivakalidoss @ Kalidoss, son of Siva, aged about 33 years, who is confined at Central Prison, Tiruchirappalli and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

Prayer in HCP No.546 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.24/2023 dated 06.03.2023 on the file of the respondent No.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Thiru.China Kali @ Kalidoss, S/o.Packirisamy aged about 27 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No. 547 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.18/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's husband one named Thiru.Periya

7/51



H.C.P.No.491 of 2023 etc

Thambi @ Rajasekar, S/o.Ravi Devar, aged about 30 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

WEB COPY

Prayer in HCP No.548 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.22/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's husband one named Thiru.Sorappu Ganesan @ Ganesan, S/o.Arumugam, aged about 24 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No.549 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.24/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Thiru.Periyappu @ Sujith, S/o.Mohanraj, aged about 25 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No.551 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.25/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Thiru.Santhosh, S/o.Thiyagarajan, aged about 22 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No.552 of 2023: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.23/2023 dated 06.03.2023 on the file of



H.C.P.No.491 of 2023 etc

the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's husband one named Thiru.Sabarinathan, S/o.Kalaimani, aged about 24 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No.553 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.21/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Thiru.Santhoshkumar, S/o.Thangaiyan, aged about 20 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

Prayer in HCP No.1464 of 2023 : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus to call for the entire records connected with the detention order in C.O.C.No.20/2023 dated 06.03.2023 on the file of the respondent no.2 and quash the same and direct the respondents to produce the body and person of petitioner's son one named Thiru.Muruga @ Vasanthakumar, S/o.Gopi, aged about 23 years, now confined at Central Prison, Trichy, before this Court and set him at liberty forthwith.

For Petitioner : Mr.V.Paarthiban
for Mr.A.Ilayaperumal
in HCP No.491 of 2023
Mr.P.Muthamizh Selvakumar
in HCP Nos. 546 to 549,
551 to 553 & 1464 of 2023

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
for all the respondents
in all HCPs



H.C.P.No.491 of 2023 etc

COMMON ORDER

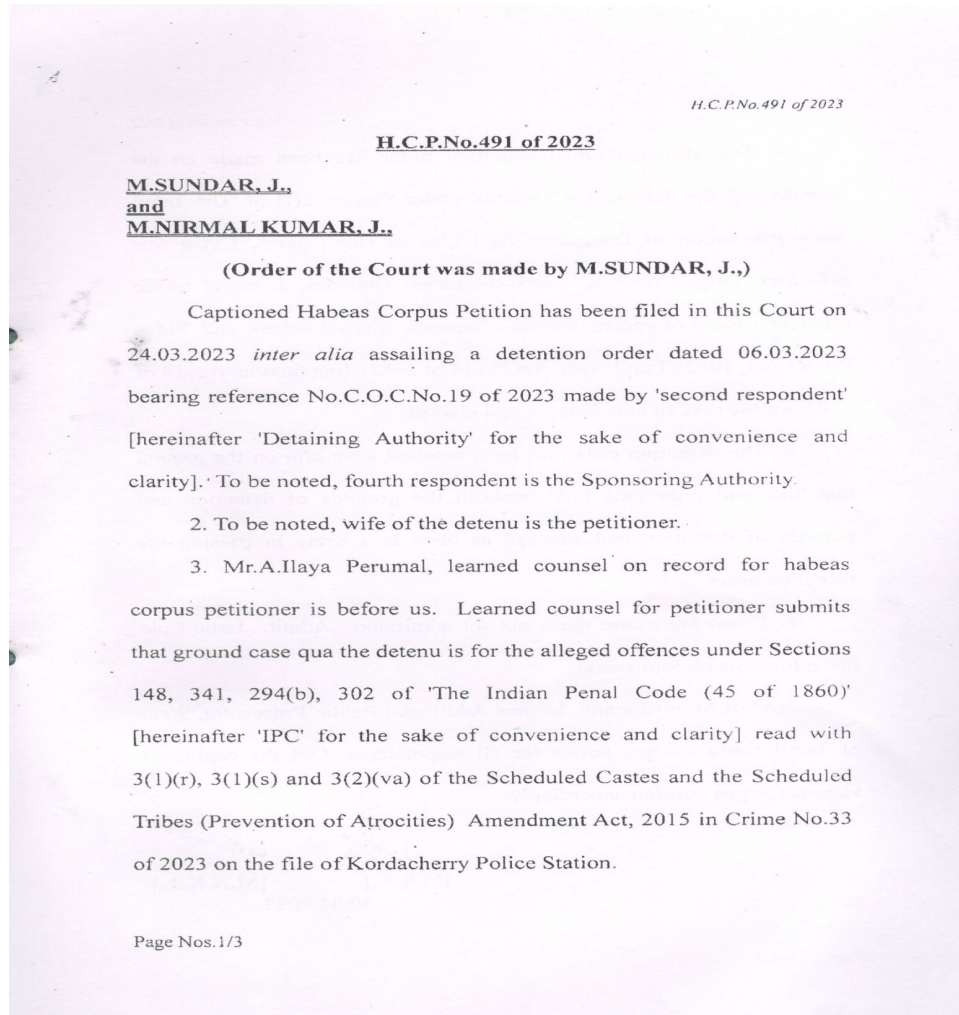
[Order of the Court was made by **M.SUNDAR, J.,**]

WEB COPY

This common order will now dispose of the captioned nine 'Habeas Corpus Petitions' ('HCPs' in plural and 'HCP' in singular for the sake of convenience and clarity).

2. When the captioned HCPs were listed for Admission, the following orders were made:

HCP No.491 of 2023



10/51



WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.491 of 2023

4. The aforementioned 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 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 detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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

gpa

[M.S.J.,]

[M.N.K.J.,]

30.03.2023

Page Nos.2/3



HCP No.546 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.546 of 2023

H.C.P.No.546 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

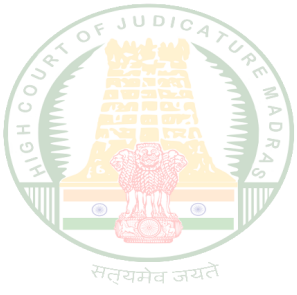
Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.17/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, mother of detenu is the petitioner.

3. Mr.P.Muthamizh Selvakumar, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Section 3(1)(r), 3(1)(s) and 3(2) (va) of SC/ST (POA) Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

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

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.546 of 2023

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].

5. The detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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

[M.S.J.,]

[M.N.K.J.,]

11.04.2023

gpa

Page Nos.2/3



WEB COPY



H.C.P.No.491 of 2023 etc

HCP No.547 of 2023

H.C.P.No.547 of 2023

H.C.P.No.547 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.18/2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

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

3. Mr.P.Muthamizh Selvakumar, learned counsel on record for habeas corpus petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for alleged offences under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2) (va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2005 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.547 of 2023

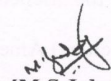
4. The aforementioned detention order has been made on the premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

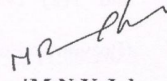
5. The detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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

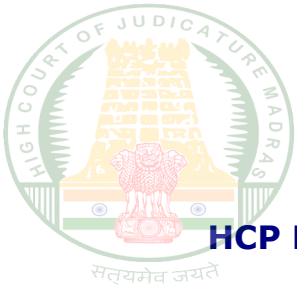
gpa


[M.S.J.]


[M.N.K.J.]

11.04.2023

Page Nos.2/3



HCP No.548 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.548 of 2023

H.C.P.No.548 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.22 of 2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. Wife of the detenu is the petitioner.

3. Mr.P.Muthamizhselvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu was initially registered for an offence under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

4. The aforementioned detention order has been made on the

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

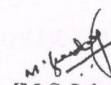
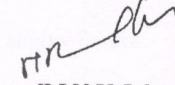
H.C.P.No.548 of 2023

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 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 detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

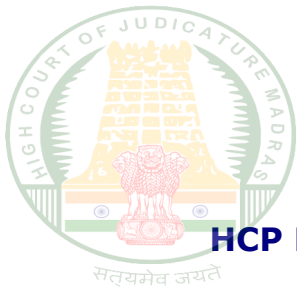
6. *Prima facie* case made out for admission. Admit. Issue Rule nisi returnable by four weeks.

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


[M.S.J.,]

[M.N.K.J.,]
12.04.2023

cse

Page Nos.2/3



HCP No.549 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.549 of 2023

H.C.P.No.549 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.24 of 2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2.Father of the detenu is the petitioner.

3.Mr.P.Muthamizhselvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu was initially registered for an offence under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

4.The aforementioned detention order has been made on the

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.549 of 2023

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 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 detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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

[M.S.J.,]

[M.N.K.J.,]

12.04.2023

cse

Page Nos.2/3



HCP No.551 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.551 of 2023

H.C.P.No.551 of 2023

M.SUNDAR, J.,

and

M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.25 of 2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2.Mother of the detenu is the petitioner.

3.Mr.P.Muthamizhselvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu was initially registered for an offence under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

4.The aforementioned detention order has been made on the

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

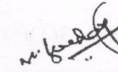
H.C.P.No.551 of 2023

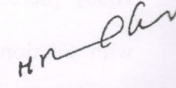
premise that the detenu is a 'Goonda' under Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber law offenders, Drug-offenders, Forest-offenders, Goondas, Immoral traffic offenders, Sand-offenders, Sexual-offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act No.14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience and clarity].

5. The detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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


[M.S.J.]


[M.N.K.J.]

12.04.2023

cse

Page Nos.2/3



HCP No.552 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.552 of 2023

H.C.P.No.552 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.23 of 2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. Wife of the detenu is the petitioner.

3. Mr.P.Muthamizhselvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu was initially registered for an offence under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

4. The aforementioned detention order has been made on the
Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.552 of 2023

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 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 detention order has been assailed *inter alia* on the ground that in spite of the fact that bail application filed by the detenu was dismissed and no bail application is pending, the detaining authority has come to the conclusion that there is an imminent possibility of the detenu coming out on bail, which reflects non-application of mind.

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

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

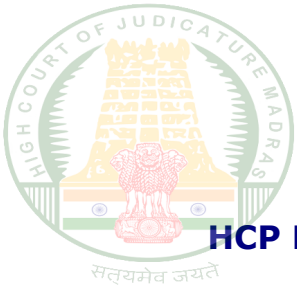
[M.S.J.,]

[M.N.K.J.,]

12.04.2023

cse

Page Nos.2/3



HCP No.553 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.553 of 2023

H.C.P.No.553 of 2023

M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 03.04.2023 *inter alia* assailing a detention order dated 06.03.2023 bearing reference C.O.C.No.21 of 2023 made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2.Mother of the detenu is the petitioner.

3.Mr.P.Muthamizhselvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu was initially registered for an offence under Sections 147, 148, 341, 294(b), 302 of 'The Indian Penal Code (45 of 1860)' [hereinafter 'IPC' for the sake of convenience and clarity] read with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 in Crime No.33 of 2023 on the file of Kudavasal Police Station.

4.The aforementioned detention order has been made on the
Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc



H.C.P.No.553 of 2023

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 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 detention order has been assailed *inter alia* on the ground that 'live and proximate link' between the grounds of detention and purpose of detention had snapped as there is a delay in passing the detention order.

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

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


[M.S.J.,]

[M.N.K.J.,]
12.04.2023

cse

Page Nos.2/3



HCP No.1464 of 2023

WEB COPY



H.C.P.No.491 of 2023 etc

H.C.P.No.1464 of 2023

H.C.P.No.1464 of 2023

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

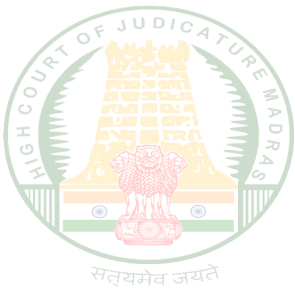
(Order of the Court was made by M.SUNDAR, J.,)

Captioned Habeas Corpus Petition has been filed in this Court on 27.07.2023 *inter alia* assailing a 'detention order dated 06.03.2023 bearing reference C.O.C.No.20/2023' [hereinafter 'impugned preventive detention order' for the sake of convenience and clarity] made by 'second respondent' [hereinafter 'Detaining Authority' for the sake of convenience and clarity]. To be noted, fifth respondent is the Sponsoring Authority.

2. To be noted, mother of the detenu is the petitioner.

3. Mr.P.Muthamizh Selvakumar, learned counsel on record for petitioner is before us. Learned counsel for petitioner submits that ground case qua the detenu is for an alleged offence under Sections 147, 148, 341, 294(b) and 302 of 'Indian Penal Code, 1860 (Act 45 of 1860)' ['IPC' for brevity] read with Section 3(1)(r), 3(1)(s), 3(2)(va) of 'Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015' [hereinafter 'SC/ST (POA) Amendment Act' for the sake of brevity] in Crime No.33 of 2023 on the file of Kudavasal Police Station.

Page Nos.1/3



WEB COPY



H.C.P.No.491 of 2023 etc

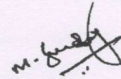

H.C.P.No.1464 of 2023

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 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. Learned counsel submits that 'live and proximate link' between the grounds of detention and purpose of detention has snapped as the date of arrest of detenu is on 01.02.2023 but the impugned preventive detention order has been made on 06.03.2023 (to be noted, impugned preventive detention order is predicated on a solitary case).

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

7. Mr. E.Raj Thilak, 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.,]
04.08.2023

gpa

Page Nos.2/3

3. The aforementioned Admission Board orders capture essentials i.e., essential facts that are imperative for appreciating this common final order and therefore this Court is not setting out the facts

27/51



H.C.P.No.491 of 2023 etc

again in this common final order. Before we proceed further, proceedings/orders made in the listings on 21.08.2023 and 04.09.2023 in five out of nine captioned HCPs i.e., H.C.P.Nos.491,546, 547, 548 and 549 of 2023 read as follows:

21.08.2023 proceedings:

' H.C.P.Nos.491,546, 547, 548 and 549 of 2023

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

(Order of the Court was made by **M.SUNDAR, J.,**)

This Court is informed by Mr.E.Raj Thilak, learned State Additional Public Prosecutor that there are four more connected HCPs. To be noted, co-accused in the ground case also have been clamped with preventive detention orders akin to impugned preventive detention orders and therefore it is submitted that the four HCPs are also connected HCPs. The number of four HCPs are H.C.P. Nos.551, 552, 553 and 1464 of 2023.

2. List captioned five HCPs along with aforementioned four HCPs (Nine HCPs altogether by tagging them with the captioned HCPs) on 04.09.2023. To be noted, as regards the aforementioned four HCPs to be tagged, we are also informed that the same are already scheduled to come up on 04.09.2023.

3. List all nine HCPs as one item (tagged together) on 04.09.2023.'

04.09.2023 proceedings:



H.C.P.No.491 of 2023 etc

' H.C.P.Nos.491,546, 547, 548 and 549 of 2023

WEB COPY

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

(Order of the Court was made by **M.SUNDAR, J.,**)

Read this in conjunction with and in continuation of earlier proceedings made in the previous listings, more particularly the listings on 30.03.2023 (H.C.P. No.491 of 2023), 11.04.2023 (H.C.P. Nos.546 and 547 of 2023), 12.04.2023 (H.C.P. Nos.548 and 549 of 2023).

2. *Thereafter, the captioned nine matters were tagged and the same have been listed together today.*

3. *Mr.V.Parthiban, learned counsel appearing on behalf of the counsel on record for the petitioner in H.C.P. No.491 of 2023 is before us. Mr.V.Parthiban is the lead counsel qua captioned matters.*

4. *As regards the respondents, Mr.E.Raj Thilak, learned State Additional Public Prosecutor for all the respondents in all the nine HCPs is before us.*

5. *Learned Prosecutor wanted to make a threshold submission and therefore he was given audience before learned counsel for petitioner. Learned Prosecutor, adverting to sub-sections (3) and (5) of Section 15-A of 'Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989' (hereinafter 'SC/ST (PoA) Act' for the sake of convenience and clarity) submitted that the*



WEB COPY



H.C.P.No.491 of 2023 etc

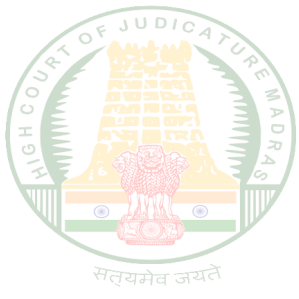
victim has to be put on notice in the captioned HCPs also.

6. Responding to the aforementioned threshold submission, learned counsel for petitioners submitted that both the aforementioned sub-sections would apply only to proceedings under SC/ST (PoA) Act as the expression used in both the aforementioned sub-sections is 'this Act'. Learned counsel pointed out that 'this Act' refers to SC/ST (PoA) Act. It was submitted that Act 14 of 1982 is a Statute under which the impugned preventive detention order has been made and therefore aforementioned sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act will not apply.

7. Learned Prosecutor pressed into service a judgment of Hon'ble Supreme Court in **Hariram Bhambi Vs. Satyanarayan and Another** reported in **2021 SCC OnLine SC 1010** in support of his contention that notice should go to the victim. A perusal of facts in Hariram's case brings to light that in an appeal to the High Court against rejection of second bail application victim was not put on notice.

8. Be that as it may, we wanted to look at the 'Statement of Objects and Reasons' (SOR) qua Act 1 of 2016 in and by which the entire chapter viz., Chapter IV A captioned 'Rights of Victims and Witnesses' was inserted in SC/ST (PoA) Act.

9. One sub-paragraph of aforementioned SOR has



WEB COPY



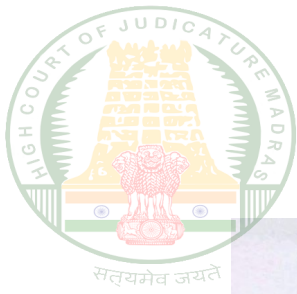
H.C.P.No.491 of 2023 etc

been extracted and set out in Hariram case vide paragraph 11 and the same reads as follows:- :

'11. Section 15A, which comes under Chapter IV-A of the SC/ST Act titled 'Rights of victims and witnesses', was introduced by way of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26 January 2016. The Statement of Objects and Reasons that accompanied the insertion of Chapter IV-A reads as follows:

"(h) to insert a new Chapter IVA relating to "Rights of Victims and Witnesses" to impose certain duties and responsibilities upon the State for making necessary arrangements for protection of victims, their dependents and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence."

10. To be noted, aforementioned 'h' is sub-paragraph (h) of paragraph 5 of the SOR. The entire SOR reads as follows:



WEB COPY



H.C.P.No.491 of 2023 etc

The Statement of Objects and Reasons for amending the Act of 1989 by the Amendment Act No.1 of 2016 appended to the connected Bill while moving the same in the Parliament, read as under:

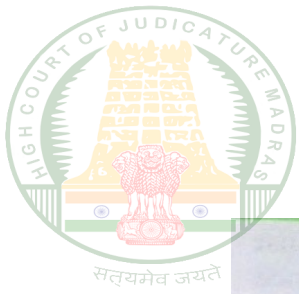
"1. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes and to establish Special Courts for the trial of such offences and for providing relief and rehabilitation of the victims of such offences.

2. Despite the deterrent provisions made in the Act, atrocities against the members of the Scheduled Castes and Scheduled Tribes continue at a disturbing level. Adequate justice also remains difficult for a majority of the victims and the witnesses, as they face hurdles virtually at every stage of the legal process. The implementation of the Act suffers due to (a) procedural hurdles such as non-registration of cases; (b) procedural delays in investigation, arrests and filing of charge-sheets; and (c) delays in trial and low conviction rate.

3. It is also observed that certain forms of atrocities, known to be occurring in recent years, are not covered by the Act. Several offences under the Indian Penal Code, other than those already covered under section 3(2) (v) of the Act, are also committed frequently against the members of the Scheduled Castes and the Scheduled Tribes on the ground that the victim was a member of a Scheduled Caste and Scheduled Tribe. It is also felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened.

4. In view of the above, it became necessary to make a comprehensive review of the relevant provisions of the Act after due consultation with the State Governments, Union territory Administrations, concerned Central Ministries, National Commission for the Scheduled Castes, National Commission for the Scheduled Tribes, certain Non-Governmental Organisations and Activists.

5. It is, therefore, proposed to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 which, inter alia, provides the following, namely:—



WEB COPY



H.C.P.No.491 of 2023 etc

- (a) to amend the long title of the Act so as to provide for the establishment of the "Exclusive Special Courts" in addition to the Special Courts for the trial of the offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes;
- (b) to amend Section 2 of the Act and insert certain new definitions like "economic boycott", "Exclusive Special Court", "forest rights", "manual scavenger", "public servant", "social boycott", "victim and witness";
- (c) to amend Section 3 of the Act relating to "Punishments for Offences of Atrocities" so as to provide some more categories of atrocities in the said section for which the same punishment as provided in the said section may be imposed;
- (d) to substitute Section 4 of the Act relating to "Punishment for neglect of duties" so as to impose certain duties upon the public servant and to provide punishment for neglect of the duties specified in the said section;
- (e) to amend Section 8 of the Act relating to "Presumption as to offences" and to provide that if the accused was acquainted with the victim or his family, the court shall presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise;
- (f) to substitute Section 14 of the Act relating to "Special Court" so as to provide that the State Government shall, with the concurrence of the Chief Justice of the High Court, establish an Exclusive Special Court for one or more districts to try the offences under the Act;
- (g) to amend Section 15 of the Act relating to "Special Public Prosecutor" so as to insert a new sub-section requiring the State Government to specify an Exclusive Public Prosecutor or appoint an advocate as an Exclusive Special Public Prosecutor for the purpose of conducting cases in Exclusive Special Court; and
- (h) to insert a new Chapter IVA relating to "Rights of Victims and Witnesses" to impose certain duties and responsibilities upon the State for making necessary arrangements for



WEB COPY

protection of victims, their dependents and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

6. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2013, containing the aforesaid amendments to the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, was introduced in the Lok Sabha during the winter session of Parliament on the 12th December, 2013. However, the said Bill was not taken up for consideration and passing.

7. Keeping in view the urgency in the matter, the President on the recommendations of the Central Government and in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, promulgated the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014 on the 4th March, 2014. It is proposed to replace the aforesaid Ordinance with the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2014.

8. The Bill seeks to achieve the above objects."

11. *Learned counsel for petitioner pointed out that Act 14 of 1982 cannot be clamped qua SC/ST (PoA) Act as the scheme of Act 14 of 1982 does not provide for the same.*

12. *The above aspect/s will be examined in the listings in the ensuing listing/s.*

13. *Another feature that may have to be examined is unlike other proceedings under SC/ST (PoA) Act, there is no trial or hearing qua Preventive Detention Act except the hearing in the habeas drill.*



WEB COPY



H.C.P.No.491 of 2023 etc

14. In the light of the narrative thus far, both sides requested for a short accommodation to examine the position further and revert to this Court.

15. List one week hence. List on 11.09.2023.'

4. The aforementioned two proceedings i.e., proceedings dated 21.08.2023 and 04.09.2023 made in five HCPs are tell-tale as to the trajectory the captioned HCPs have taken before us and the proceedings are also tell-tale as to how the captioned nine HCPs were tagged and listed together as one serial number in the cause list today.

5. Be that as it may, we make it clear that aforementioned nine Admission Board orders as well as aforesaid proceedings/orders dated 21.08.2023 and 04.09.2023 shall also be read as an integral part and parcel of this common final order.

6. Let us now take up the point that was brought up by learned Prosecutor as regards the victim being put on notice which has been captured in aforementioned 04.09.2023 proceedings. To be noted, this turns on sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act. After carefully considering the submissions made at the bar by both sides, we come to the conclusion that sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act will not apply to HCPs where



H.C.P.No.491 of 2023 etc

preventive detention orders are assailed. The discussion and dispositive reasoning in this regard i.e., reasons are as follows:

6.1 Habeas legal drill is qua a constitutional remedy under Article 226 of the Constitution of India more particularly Article 226(1) and therefore HCPs will not be covered by the expression '*proceedings under this Act*' occurring in sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act;

6.2 As regards sub-section (5) of Section 15-A of SC/ST (PoA) Act, it also talks about '*connected proceedings*' but plain language of sub-section (5) of Section 15-A of SC/ST (PoA) Act is very clear that '*connected proceedings*' pertains to (a)conviction, (b)acquittal and/or (c) sentence. Therefore HCPs will not come within the sweep of '*connected proceedings*' expression deployed in sub-section (5) of Section 15-A of SC/ST (PoA) Act;

6.3 As regards **Hariram Bhambhi's** case alluded to in paragraph 7 of our aforementioned 04.09.2023 proceedings, the same pertains to an appeal to the High Court against rejection of a second

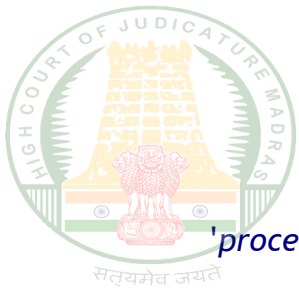


H.C.P.No.491 of 2023 etc

bail application. Before proceeding further in this regard we remind ourselves of the declaration of law made by Constitution Bench in the celebrated **Padma Sundara Rao** case [**Padma Sundara Rao Vs. State of Tamil Nadu** reported in **(2002) 3 SCC 533**] as regards precedents/citing case laws as precedents and the relevant paragraph is paragraph 9 which reads as follows:

'9.Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington v. British Railways Board [(1972) 2 WLR 537 : 1972 AC 877 (HL) [Sub nom British Railways Board v. Herrington, (1972) 1 All ER 749 (HL)]]. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.'

Therefore, it will suffice to respectfully say that **Hariram Bhambhi's** case does not deal with a habeas corpus petition. However, a further buttressing factor is, as regards appeal to the High Court against rejection of a bail application under SC/ST (PoA) Act, the same will be a statutory appeal under Section 14-A (2) of SC/ST (PoA) Act and therefore the expressions '*proceedings under this Act*',



H.C.P.No.491 of 2023 etc

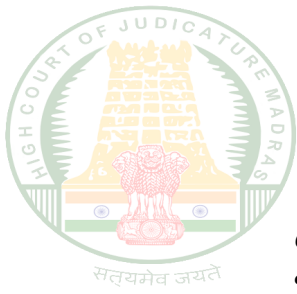
'proceeding under this Act' and 'connected proceedings' in sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act would apply.

6.4 In the case on hand, the impugned preventive detention orders have been made under Tamil Nadu Act 14 of 1982. Section 3(1) of TN Act 14 of 1982 captioned '*Power to make orders detaining certain persons*' makes it clear that a preventive detention order can be clamped for preventing a person from acting in any manner prejudicial to the maintenance of public order, the expression '*acting in any manner prejudicial to the maintenance of public order*' has been described [though section 2 of TN Act 14 of 1982 is captioned 'Definitions' this Court chooses to say that the expression has been 'described' owing to the nature of the expression and the language of Section 2(1)(a)] vide Section 2(1)(a) of TN Act 14 of 1982. Section 2 (1)(a) of TN Act 14 of 1982 reads as follows:

2. Definitions.- (1) *In this Act, unless the context otherwise requires,-*

(a) "**acting in any manner prejudicial to the maintenance of public order**" means - (i) *in the case of a bootlegger, when he is engaged, or is making preparations for engaging, in any of his activities as a bootlegger, which affect adversely, or are likely to affect adversely, the maintenance of public order;*

(i-A) *in the case of a cyber law offender, when he is*



WEB COPY



H.C.P.No.491 of 2023 etc

engaged, or is making preparations for engaging, in any of his activities as a cyber law offender, which affect adversely, or are likely to affect adversely, the maintenance of public order;

(ii) in the case of a drug-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a drug-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order;

(ii-A). in the case of a forest-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a forest-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order;

(iii) in the case of a goonda, when he is engaged, or is making preparations for engaging, in any of his activities as a goonda which affect adversely, or are likely to affect adversely, the maintenance of public order;

(iv) in the case of an immoral traffic offender when he is engaged, or is making preparations for engaging in any of his activities as an immoral traffic offender, which affect adversely, or are likely to affect adversely, the maintenance of public order;

(iv-A) in the case of a sand-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a sand-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order.

(iv-B) in the case of a sexual-offender, when he is engaged, or is making preparations for engaging, in any of his activities as a sexual-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order.

(v) in the case of a slum-grabber, when he is engaged, or is making preparations for engaging, in any of his activities as a slum-grabber, which affect adversely, or are likely to affect adversely, the maintenance of public order.

(vi) in the case of a video pirate, when he / she is engaged or is making preparations for engaging, in any of his / her activities as a video pirate, which affect adversely, or are likely to affect adversely the maintenance of public order.

Explanation.- *For the purpose of this clause (a), public order shall be deemed to have been affected adversely, or shall be deemed likely to be affected adversely, inter alia, if any of the activities or any of the persons referred to in this clause (a) directly or indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity, among the general public or any section thereof or a grave or widespread danger to life or public health or ecological system;*



H.C.P.No.491 of 2023 etc

WEB COPY

6.5 A careful perusal of aforementioned Section 2(1)(a) of Tamil Nadu Act 14 of 1982 makes it clear that it does not cover within its sweep offences under the Special Statute viz., SC/ST (PoA) Act. Therefore, only IPC offences qua the detenus in the captioned nine HCPs have to be considered. In this view of the matter also, sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act does not come into play;

6.6 The ground case qua nine detenus in the captioned nine HCPs is Spl.S.C.No.51 of 2023 on the file of I Additional District and Sessions Judge, Thanjavur (hereinafter 'said Special Court' for the sake of convenience). Learned Prosecutor submits on instructions that in the said Special Court, charge sheet has been filed against all nine detenus on 17.07.2023 and the next hearing date is 14.09.2023. In this regard, Mr.V.Parthiban, learned counsel appearing on behalf of the petitioner in HCP No.491 of 2023 submits on instructions from Mr.A.Ilayaperumal, learned counsel on record for petitioner in HCP No.491 of 2023 and Mr.P.Muthamizh Selvakumar, learned counsel on record for petitioners in other eight HCPs that bail applications were moved for all the nine detenus in the said Special Court and the same have been dismissed. Therefore, if at all and if it be so, nine detenus

40/51



H.C.P.No.491 of 2023 etc

qua captioned HCPs should file appeals (against rejection of bail) in this Court under Section 14-A(2) of SC/ST (PoA) Act. We make it clear that if the detenus file appeals under Section 14-A(2) of SC/ST (PoA) Act, sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act will come into play, the victim and or their dependants shall be entitled to be heard. To be noted, the amendment (SOR) brought into SC/ST (PoA) Act by introducing Chapter IV-A captioned 'Rights of Victims and Witnesses' on and from 26.01.2016 has been extracted and reproduced in its entirety in our 04.09.2023 proceedings. We make it clear rights inter-alia of victims stand preserved;

6.7 As regards the habeas legal drill on hand, it is a legal contestation between a detenu or a HCP petitioner on behalf of the detenu on one side and the State on the other. It turns on technicalities and procedural fairness in making of the preventive detention order and there is no trial. In this regard, we remind ourselves that in **A.K.Gopalan Vs. State of Madras** reported in **AIR 1950 SC 27: 1950 SCC 228**, it was held that the charter of rights adumbrated in Articles 19 and 21 are distinct and the lone dissenter was Hon'ble Mr. Justice Fazl Ali (as His Lordship then was). The dissenting view of Hon'ble Mr. Justice Fazl Ali in **A.K.Gopalan's** case



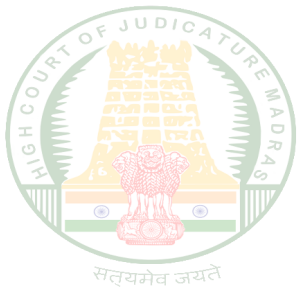
H.C.P.No.491 of 2023 etc

was subsequently held to be correct law impliedly vide **R.C.Cooper Vs. Union of India** reported in **(1970) 1 SCC 248** and directly vide **Sambu Nath Sarkar Vs. State of West Bengal** reported in **(1973) 1 SCC 856**. Therefore, the obtaining legal position as regards a habeas legal drill is, procedural fairness is an integral part of making preventive detention orders and a habeas legal drill would primarily test this inter-alia on technicalities attendant thereto. In this view of the matter also, it is a contestation qua the State.

7. This Court having cleared the air and having cleared the clutter qua sub-sections (3) and (5) of Section 15-A of SC/ST (PoA) Act, now reverts to the habeas legal drill on hand.

8. One common point that has been urged as regards the petitioners' campaign against nine impugned preventive detention orders is subjective satisfaction arrived at by the detaining authority qua imminent possibility of detenus being enlarged on bail is flawed/impaired. Elaborating on this point, Mr.V.Paarthiban learned counsel drew our attention to a portion of paragraph 5 of the grounds of impugned preventive detention orders which reads as follows:

'5....I am aware that Thiru.Sivakalidoss @ Kalidoss, male, aged 33/2023, S/o.Siva was produced before the



WEB COPY



H.C.P.No.491 of 2023 etc

Judicial Magistrate Court, Tiruvarur in Kudavasal Police Station Cr.No.33/2023 u/s 147, 148, 341, 294(b), 302 IPC r/w 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (POA) Amendment Act 2015 and was remanded to judicial custody and lodged at Central Prison, Tiruchirappalli on 01.02.2023. His remand period was upto 15.02.2023. Further his remand period has been extended upto 01.03.2023. Further his remand period has been extended upto 15.03.2023.....'

9. To be noted, the aforementioned extracted portion is *ad verbatim* repeated in all nine impugned preventive detention orders.

10. Adverting to the aforementioned portion of the grounds of impugned preventive detention orders, learned counsel drew our attention to the grounds booklet i.e., the booklet containing the grounds which form the basis of grounds of impugned preventive detention orders served on the detenus and submitted that the remand extension order made by said Special Court has not been correctly translated.

11. We had the benefit of perusing the grounds booklet and we find that as regards the remand extension on 15.02.2023 i.e., remand



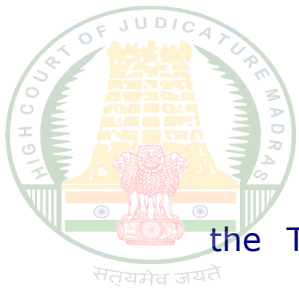
H.C.P.No.491 of 2023 etc

extension upto 01.03.2023 order made by the learned Special Court Judge clearly says that the accused were produced through video conference but Tamil translation says that the accused were produced meaning the accused were physically produced before the said Special Court. This is clearly a flaw in the translation. Considering the low literacy level of the nine detenus we are of the view that *Powanammal* principle is attracted i.e., ratio laid down by Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in **(1999) 2 SCC 413** and the relevant paragraphs 6 and 16 {as in SCC journal} read as follows:

'6.The short question that falls for our consideration is whether failure to supply the Tamil version of the order of remand passed in English, a language not known to the detenue, would vitiate her further detention.

16. For the above reasons, in our view, the non-supply of the Tamil version of the English document, on the facts and in the circumstances, renders her continued detention illegal. We, therefore, direct that the detenue be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed. '

12. Besides *Powanammal* principle we also find that the remand order is a technical legal document and therefore it is imperative that



H.C.P.No.491 of 2023 etc

WEB COPY

the Tamil translation is accurate. Be that as it may, as regards technical legal document two different versions in English and Tamil would baffle any individual and more so when the detenus have low literacy level. This means or in other words the sequitur is, rights of the detenus to make effective representation qua preventive detention orders is a sacrosanct constitutional safeguard ingrained in Article 22(5) of the Constitution of India and a breach of the same vitiates preventive detention orders leaving the same liable for being dislodged in a habeas legal drill. In the light of the narrative thus far, we have no hesitation in saying that captioned HCPs are such cases where there is breach of Article 22(5) of Constitution of India. Therefore, the incorrect translation and two different versions of remand extension orders in English and Tamil have vitiated the impugned preventive detention orders for more than one reason and all nine impugned preventive detention orders deserve to be dislodged in this habeas legal drill.

13. Ergo, the sequitur is, captioned HCP No.491 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.19/2023 made by the second respondent is set aside and the detenu Thiru.Sivakalidoss @ Kalidoss, aged 33 years, Son of Thiru.Siva, is directed to be set at liberty forthwith, if not

45/51



H.C.P.No.491 of 2023 etc

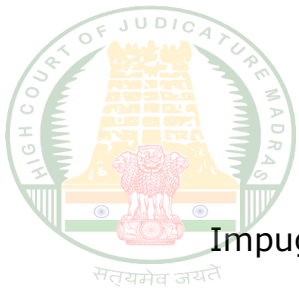
required in connection with any other case / cases. There shall be no order as to costs.

WEB COPY

13.1 *Apropos*, the sequitur is, captioned HCP No.546 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.17/2023 made by the second respondent is set aside and the detenu Thiru.China Kali @ Kalidoss, aged 27 years, Son of Thiru.Packirisamy, 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.

13.2 Therefore, captioned HCP No.547 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.18/2023 made by the second respondent is set aside and the detenu Thiru.Periya Thambi @ Rajasekar, aged 30 years, Son of Thiru.Ravi Devar, 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.

13.3 In the result, captioned HCP No.548 of 2023 is allowed.



H.C.P.No.491 of 2023 etc

Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.22/2023 made by the second respondent is set aside and the detenu Thiru.Sorappu Ganesan @ Ganesan, aged 24 years, Son of Thiru.Arumugam, 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.

13.4 **Finally**, captioned HCP No.549 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.24/2023 made by the second respondent is set aside and the detenu Thiru.Periyappu @ Sujith, aged 25 years, Son of Thiru.Mohanraj, 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.

13.5 **In the light of the narrative, discussion and dispositive reasoning supra**, captioned HCP No.551 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.25/2023 made by the second respondent is set aside and the detenu Thiru.Santhosh, aged 22 years, Son of Thiru.Thiyagarajan, is directed to be set at liberty forthwith, if not required in connection with

47/51



H.C.P.No.491 of 2023 etc

any other case / cases. There shall be no order as to costs.

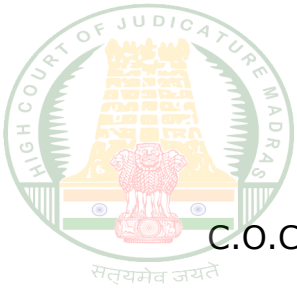
WEB COPY

13.6 In conclusion, captioned HCP No.552 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.23/2023 made by the second respondent is set aside and the detenu Thiru.Sabarinathan, aged 24 years, Son of Thiru.Kalaimani, 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.

13.7 Writing the operative portion, we say, captioned HCP No.553 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference C.O.C.No.21/2023 made by the second respondent is set aside and the detenu Thiru.Santhoshkumar, aged 20 years, Son of Thiru.Thangaiyan, 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.

13.8 Sum sequitur of discussion/dispositive reasoning supra is captioned HCP No.1464 of 2023 is allowed. Impugned preventive detention order dated 06.03.2023 bearing reference

48/51



H.C.P.No.491 of 2023 etc

C.O.C.No.20/2023 made by the second respondent is set aside and the detenu Thiru.Muruga @ Vasanthakumar, aged 23 years, Son of Thiru.Gopi, 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.)
11.09.2023

Index : Yes

Neutral Citation : Yes

mmi

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

To

1. The Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai -9.
2. The District Collector and District Magistrate, Thiruvarur District, Thiruvarur.
- 3.The Superintendent of Police, Thiruvarur District, Thiruvarur.
- 4.The Inspector of Police, Koradacherry Police Station, Thiruvarur District.
- 5.The Inspector of Police, Kudavasal Police Station, Thiruvarur District.

49/51



H.C.P.No.491 of 2023 etc

6.The Superintendent of Prison,
Central Prison, Tiruchirappalli.

WEB COPY

7.The Public Prosecutor,
High Court, Madras.



WEB COPY



H.C.P.No.491 of 2023 etc

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

mmi

**H.C.P.Nos.491,546 to 549,
551 to 553 & 1464 of 2023**

11.09.2023