



HCP.No.814/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2023

CORAM

THE HONOURABLE MR . JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.814/2023

Lakshmi

..

Petitioner

Versus

1.The State of Tamil Nadu
rep.by its Secretary to Government
Home, Prohibition & Excise Dept
Secretariat, Fort St George
Chennai 600 009.

2.The Commissioner of Police
Salem City, Salem.

3.The Superintendent of Prison
Central Prison,Salem District.

4.The Inspector of Police
Annadanapatty Police Station
Salem District.

..

Respondents



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Prayer:- Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for a Writ of Habeas Corpus to call for the records pertaining to the order of detention passed in CMP.No.23/Goonda/Salem City/2023 dated 12.04.2023 passed by the 2nd respondent and set aside the same and directing the respondents to produce the petitioner's son by name Satheesh, son of Raju, aged about 36 years before this Court now confined in Central Prison, Salem and set him at liberty.

For Petitioner : Mr.I.Sheik Mohamed
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

- (1)The petitioner, mother of the detenu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 12.04.2023 slapped on her son, branding him as "Goonda" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].
- (2)Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.



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(3) Though several points have been raised by the learned counsel for the petitioner, the detention order is liable to be quashed on the sole ground that the subjective satisfaction of the Detaining Authority while stating that the detenu is likely to be released on bail, by relying upon the document namely Arrest Intimation, whose vernacular translation is defective, is vitiated.

(4) It is seen that in page No.92 of the Booklet furnished to the detenu, the Arrest Intimation of the detenu has been furnished in English version. However, the said Arrest Intimation has not been translated in the vernacular version on the subsequent page. The non-translation of the vital document in vernacular language would deprive the detenu of making effective representation to the authorities against the order of detention.

(5) We remind ourselves of Powanammal principle i.e., ratio in ***Powanammal Vs. State of Tamil Nadu*** reported in ***(1999) 2 SCC 413***, wherein the Hon'ble Supreme Court addressed itself to this translation point in a similar fact situation. The question which the Hon'ble Supreme Court addressed itself to is captured in paragraph 6 and the manner in



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which a Hon'ble Bench of the Supreme Court answered this question is captured in paragraph 16. 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."

(6)Thus, the detention order is vitiated on the ground of defective translation and hence, the same is liable to be quashed.

(7)In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 12.04.2023 in CMP.No.23/Goonda/Salem City/2023 is hereby set aside and the Habeas Corpus Petition is allowed. The detenu



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viz., Satheesh, son of Raju, aged about 36 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[SSSRJ] [SMJ]
09.10.2023

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To

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High Court, Madras.



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S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,

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