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H.C.P.No.1154 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.1154 of 2023

M.Banu

W/o Moorthy

..

Petitioner

v.

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

2. The Commissioner of Police
Tambaram City

3. The Superintendent of Prison
Central Prison, Puzhal
Chennai

4. The Inspector of Police
T1, Tambaram Prohibition Enforcement Wing
Chennai

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Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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praying for issuance of a Writ of Habeas Corpus, to call for the records pertaining to the order of detention passed by the second respondent in his proceedings in No.25/BCDFGISSSV/2023, dated 06.06.2023 and quash the same as illegal and produce the detenu, namely Santhosh Kumar, S/o Moorthy, aged 23 years, now he is confined in Central Prison II, Puzhal, Chennai before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.C.Raja

For Respondents :: Mr.E.Raj Thilak
 Additional Public Prosecutor
 assisted by Mr.C.Aravind, Advocate

ORDER

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

The petitioner, who is the mother of the detenu, namely, Santhosh Kumar, aged 23 years, S/o Moorthi, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 06.06.2023 slapped on her son, branding him as 'Drug Offender' 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



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Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel appearing for petitioner pointed out that the translated version of the report of the Forensic Sciences Department dated 30.05.2023 found at page 50 of the booklet is not furnished to the detenu. The learned counsel also relied upon the judgment of the Hon'ble Supreme Court in the case of *Powanammal v. State of Tamil Nadu, (1999) 2 SCC 413* and contended that the non-supply of the translated version vitiates the detention order.

4. We also find that though the report of the Forensic Sciences Department dated 30.05.2023 is available at pages 48 to 50 of the booklet in English, the translated version of the report concerning the third page (Pg.50) of the booklet is not furnished to the detenu. The non-supply of the translated version to the detenu vitiates the detention order, as held by the



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Hon'ble Supreme Court in the case of ***Powanammal Vs. State of Tamil***

Nadu, (1999) 2 SCC 413 holding that what applies to a document, would equally apply to furnishing translated copy of the document in the language known to and understood by the detenu. In the said judgment, the Hon'ble Supreme Court has further held 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."

In view of the judgment of the Hon'ble Supreme Court in *Powanammal's case*, the impugned order is liable to be set aside.



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5. Accordingly, the detention order passed by the 2nd respondent dated 06.06.2023 in No.25/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Santhosh Kumar, S/o Moorthi, aged 23 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

08.11.2023

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To

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High Court, Madras



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