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H.C.P.No.1479 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM :

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

H.C.P.No.1479 of 2023

Kavitha
W/o Pandiyan

..

Petitioner

v.

1. The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Fort St.George
Chennai 600 009

2. The Commissioner of Police
Greater Chennai
Vepery, Chennai 600 007

3. The Superintendent
Central Prison, Puzhal
Chennai 600 066

4. State rep. by
The Inspector of Police
F-4, Thousand Light Police Station
Triplicane, Chennai 600 006
Cr.No.116 of 2023

..

Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, calling for the records relating to the detention order passed by the 2nd respondent pertaining to the order made in No.205/BCDFGISSSV/2023 dated on 02.06.2023 in detain the detenu under 2(f) of Tamil Nadu Act of 1982 as a GOONDA and quash the same and direct the respondents to produce the detenu Pandiyan, Son of Ramu, Hindu, aged about 31 years, who is detained at Central Prison, Puzhal at Chennai before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.Mohammed Aasif

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 wife of the detenu, namely, Pandiyan, aged 31 years, S/o Ramu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 02.06.2023 slapped on her husband, branding him as 'Goonda' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders,



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Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu

Act 14 of 1982).

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 submitted that the detaining authority relied upon the order in CrI.M.P.No.8322 of 2022 passed by the learned XXIII Additional Sessions Judge, Chennai to arrive at the subjective satisfaction that the detenu is likely to be granted bail. The learned counsel for the petitioner pointed out that the said order, which is found in page 245 of the booklet, is in English and the translated version is not furnished to the detenu, who has studied upto 9th Standard. 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. This Court finds merit on his submission. The above issue is no longer res integra, as the Hon'ble Supreme Court in the case of ***Powanammal Vs. State of Tamil Nadu*** reported in (1999) 2 SCC 413 has held 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 tune with the judgment of the Hon'ble Supreme Court, this Court finds that the impugned order of detention is vitiated for the failure to furnish the



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translated version of the order passed in similar case, to the detenu, which has been relied upon by the detaining authority.

5. In view of the aforesaid reason, the detention order passed by the 2nd respondent dated 02.06.2023 in No.205/BCDFGISSSV/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Pandiyan, S/o Ramu, aged 31 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

03.11.2023

SS

To

1. The Addl. Chief Secretary to Government
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2. The Commissioner of Police
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5. The Public Prosecutor
High Court, Madras



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AND

SUNDER MOHAN,J.

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