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HCP.No.1482 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

THE HONOURABLE MR . JUSTICE **S.S.SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

H.C.P.No.1482 of 2023

R.Mala .. Petitioner

Vs.

- 1.The Government of Tamil Nadu
rep. By its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur – 602 001.
- 3.The Superintendent of Police,
Tiruvallur District, Tiruvallur – 602 001.
- 4.The Superintendent,
Central Prison, Puzhal, Chennai – 66.
- 5.Inspector of Police,
Tiruvallur Taluk Police Station,
Tiruvallur – 602 001.

.. Respondents

Petition filed under Article 226 of The Constitution of India
praying for a Writ of Habeas Corpus to call for the records relating
to the proceedings of the second respondent in BCDFGISSSV
No.13/2023 dated 29.05.2023 against the petitioner's son
Santhosh, male, aged about 22 years, S/o.Rajasekar and quash the
same and consequently direct the respondents herein to produce



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the detenu who is detained under the Tamil Nadu Act 14 of 1982 currently confined at Central Prison, Puzhal, Chennai, before this Court and set him at liberty.

For Petitioner : Mr.J.Jagath Ratchagan

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

The petitioner, mother of the detenu Srinivasan, has come forward with this petition challenging the detention order passed by the second respondent dated 29.05.2023 slapped on her son, 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, Sexual 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.

3. Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is



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liable to be quashed on the sole ground that the detenu was furnished with a Booklet without the translation of the similar case bail order viz., Crl.M.P.No.3717 of 2021 dated 26.08.2021 in the vernacular language and which bail order is relied upon by the Detaining Authority to arrive at the subjective satisfaction about the possibility of the detenu's release on bail.

4. It is seen that page No.56 of the Booklet furnished to the detenu contains the English version of the similar case bail order dated 26.08.2021 in Crl.M.P. No.3717 of 2021. The said bail order has not been translated in the vernacular version. This non-furnishing of the vital document in vernacular language would deprive the detenu of making effective representation to the authorities against the order of detention.

5. In this context, it is useful to refer to the judgment of the Hon'ble Supreme Court in ***Powanammal Vs. State of Tamil Nadu*** reported in **(1999) 2 SCC 413**. The Hon'ble Supreme Court had occasion to deal with similar situation where in the Grounds of Detention referred to an order remanding the detenu therein to judicial custody was in English language. Since the Tamil version of the document was not supplied to the detenue therein, a specific



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issue was raised by the Hon'ble Supreme Court whether failure to supply Tamil version of the remand order passed in English, a language not known to the detenu therein, would vitiate the detenu's further detention. The Hon'ble Supreme Court, after discussing the safeguards embodied in Article 22(5) of the Constitution of India, observed that the detenu should be afforded an opportunity of making representation effectively against the Detention Order and that, the failure to supply every material in the language which can be understood by the detenu, is imperative. In the said context, the Hon'ble Supreme Court has held as follows:-

(1) Paragraphs 9 and 16 {as in SCC journal} read as follows:

"9.However, this Court has maintained a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of making an effective representation against the order. But it would not be so where the



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document merely finds a reference in the order of detention or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the language known to and understood by the detenu, should the document be in a different language.

.....

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 non-furnishing of the vital document in the vernacular language and hence, the same is liable to be quashed.

7. In view of the aforesaid reason, the detention order passed by the second respondent dated 29.05.2023 in BCDFGISSSV No.13/2023, is hereby set aside and the Habeas Corpus Petition is



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allowed. The detenu viz., Santhosh, S/o.Rajasekar, aged about 22 years, is directed to be set at liberty forthwith unless he is required in connection with any other case.

[S.S.S.R., J.] [S.M, J.]
12.10.2023

Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 9.
- 2.The District Magistrate and District Collector,
Tiruvallur District, Tiruvallur - 602 001.
- 3.The Superintendent of Police,
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- 6.The Public Prosecutor
High Court, Madras.



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AND
SUNDER MOHAN, J.,**

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