



H.C.P.No.1498 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.No.1498 of 2023

Manikumar

... Petitioner

Vs.

- 1.State represented by
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai – 600 009.
- 2.The District Magistrate and
District Collector,
Dharmapuri District,
Dharmapuri.
- 3.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
- 4.The Superintendent of Prison,
Central Prison,
Salem.
- 5.The Inspector of Police,

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Eriyur Police Station,
Dharmapuri District.

... Respondents

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Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to call for the records in S.C.No.07/2023, dated 19.06.2023, on the file of the second respondent and quash the detention as illegal and direct the respondents to produce the detenu, Thiru. Tendulkar @ Sachin @ Thera @ Thendral, S/o.Manikumar, aged about 22 years, D.No.4/195, Mel Somarpettai Village, Jaheervenkatapuram Post, Krishnagiri District, now confined at Central Prison at Salem, before this Hon'ble Court and set him at liberty forthwith.

For Petitioner	:	M/s.S.Sengkodi
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor assisted by Aravind C.

ORDER

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

The petitioner, father of the detenu namely Tendulkar @ Sachin @ Thera @ Thendral, aged about 22 years, has come forward with this petition challenging the detention order passed by the 2nd respondent, dated 19.06.2023 slapped on his son, branding him as "Goonda" under the Tamil



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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.

3.Though several points have been raised by the learned counsel for the petitioner, it is stated that the detention order is liable to be quashed on the sole ground that the detenu was furnished with a Booklet without the translation of the Accident Register and Wound Certificate in the vernacular language and which documents were relied upon by the Detaining Authority. It is submitted by the petitioner's counsel that the detenu had been deprived of his valuable right of making an effective representation as against the impugned order of detention.

4.It is seen from page Nos.355 to 358 of the Booklet furnished to the detenu that the Accident Register and the Wound Certificate are in English and the translated version of those documents in vernacular language have



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not been furnished to the detenue. This non furnishing of the vital documents 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 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, 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 in Paragraphs 9 and 16 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 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.

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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 documents in the vernacular language and hence, the same is liable to be quashed.

7. Accordingly, the detention order passed by the 2nd respondent in S.C.No.07/2023, dated 19.06.2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Tendulkar @ Sachin @ Thera @ Thendral, S/o.Manikumar, 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.)
20.11.2023

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

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- 6.The Public Prosecutor,
High Court, Madras.



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