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H.C.P.No.1706 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.1706 of 2023

Vidhya

W/o Thangam @ Vinoth

..

Petitioner

v.

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

2. District Collector and District Magistrate
Nagapattinam District
Nagapattinam

3. The Superintendent of Police
Nagapattinam District

4. The Superintendent
Central Prison, Tiruchirappalli

5. The Circle Inspector of Police
Kilvelur Circle Police Station
Nagapattinam District

..

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 second respondent pertaining to the order made in C.O.C.No.24/2023 dated 07.06.2023 in detain the detenu under 2(b) of Tamil Nadu Act 14 of 1982, as a Bootlegger and quash the same and direct the respondents to produce the detenu, Thangam @ Vinoth, Son of Thavamani, aged 26 years, who is detained at Central Prison, Tiruchirappalli before this Hon'ble Court and set him at liberty.

For Petitioner :: Mr.G.Nirmal Krishnan

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, Thangam @ Vinoth, aged 26 years, S/o Thavamani, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 07.06.2023 slapped on her husband, branding him as 'Bootlegger' under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic



H.C.P.No.1706 of 2023

Offenders, Sand Offenders, 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 pointed out that though the detaining authority has relied upon the bail order granted to the accused in a similar case in CrI.M.P.No.3348 of 2021 dated 26.10.2021 to arrive at the subjective satisfaction that the detenu is likely to be released on bail, the translated version of the said order was not furnished to the detenu, as the detenu is a school dropout and studied upto 10th Standard. Therefore, the detenu was deprived of his valuable right to make an effective representation. 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.



H.C.P.No.1706 of 2023

4. This Court finds that though the order of bail granted by the learned Sessions Judge, Nagapattinam in CrI.M.P.No.3348 of 2021 dated 26.10.2021 in respect of the accused in a similar case relied upon by the detaining authority in the grounds of detention is available, at page 100 of the booklet, in English, the translated version of the same is not furnished to the detenu, thereby he has been deprived of an opportunity to make an effective representation. Therefore, the non-supply of the translated version to the detenu vitiates the detention order, as held by the 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.

5. Accordingly, the detention order passed by the 2nd respondent dated 07.06.2023 in C.O.C.No.24/2023 is hereby set aside and the habeas corpus petition is allowed. The detenu viz., Thangam @ Vinoth, S/o Thavamani, aged 26 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (S.M.,J.)
08.11.2023

SS



H.C.P.No.1706 of 2023

To

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SUNDER MOHAN,J.

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