



HCP No.2048 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

H.C.P. No.2048 of 2022

Kalaiselvi
W/o.Ranganathan

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu, Fort St. George,
Chennai - 600 009.

2.The Commissioner of Police,
Tambaram, Chennai.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.

4.The Inspector of Police,
Selaiyur Police Station, Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for
issuance of a writ of habeas corpus to call for the records of pertaining to



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the order of detention dated 06.07.2022 passed by the 2nd Respondent in BCDFGISSV No.101/2022 and Quash the same and produce the Detenu Ajith S/o. Ranganathan aged about 22 years before this Honble Court and set him at liberty.

For Petitioner : Mr.D.Mario Johnson
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

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

Captioned 'Habeas Corpus Petition' [hereinafter 'HCP' for the sake of convenience and brevity] has been filed by mother of the detenu assailing 'detention order dated 06.07.2022 bearing reference BCDFGISSSV.No.101/2022' [hereinafter 'impugned detention order' for the sake of convenience] made by the 'second respondent' [hereinafter 'detaining authority' for the sake of convenience and clarity].

2.Mr.D.Mario Johnson, learned counsel for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for respondents are before us.



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3.In and by the impugned detention order, the detenu has been detained branding him as 'Goonda' within the meaning of Section 2(f) of 'The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders Slum grabbers and Video Priates Act, 1982 (Tamil Nadu Act 14 of 1982)' [hereinafter 'Act 14 of 1982' for the sake of convenience].

4.Notwithstanding very many averments in the support affidavit, learned counsel for petitioner predicates his campaign against the impugned detention order on one short point and that is, Tamil translation of PT-Case Diary at Page Nos.25 and 27 of the grounds of detention which was served to the detenu in the form of a booklet [hereinafter 'said booklet' for the sake of convenience] has not been provided. We had the benefit of perusing the said booklet and we find that the petitioner's submission is correct.

5.In response to this, learned Additional Public Prosecutor submitted that Page Nos.25 and 27 constitute only extract from PT-Case Diary. Whether it was necessary to annexe Case Diary to the grounds of detention



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is a question which we leave open but the point is when extract from Case Diary is annexed, it is imperative that translation in a language with which the detenu is conversant has to necessarily be given and this turns on ***Powanammal's*** principle i.e., principle/ratio in the case of ***Powanammal vs. State of Tamil Nadu and another*** reported in ***[1999] 2 SCC 413***. To be noted, on facts, Powanammal's case also arose under Act 14 of 1982 and the relevant paragraphs are paragraphs 6 and 16 which read 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.'

6.We now revert to the case on hand. A careful perusal of the confession statement makes it clear that the literacy level of the detenu is only 10th Standard in School. There is no dispute that the detenu is



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conversant with Tamil only. Therefore, not furnishing the detenu with Tamil translation of the aforementioned document in the booklet vitiates the impugned detention order. It is hit by the vice qua *Pownanammal's* principle.

7.Ergo, the sequitur is, captioned HCP is allowed and the detention order dated 06.07.2022 bearing reference BCDFGISSSV No.101/2022 made by the second respondent is set aside and the detenu Thiru.Ajith, aged 22 years, son of Thiru.Ranganathan is directed to be set at liberty forthwith unless required in connection with any other case. There shall be no order as to costs.

(M.S.J.) (M.N.K.,J.)
02.03.2023

Index:Yes/No

Neutral Citation : Yes/No

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Note: Registry to forthwith communicate this order to Jail authorities in Central Prison, Puzhal, Chennai



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**M.SUNDAR, J.
and
M.NIRMAL KUMAR, J.**

cse

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Police,
Tambaram, Chennai.
- 3.The Superintendent of Prison,
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- 4.The Inspector of Police,
Selaiyur Police Station, Chennai.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai - 104.

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