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HCP.No.1974 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM

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

H.C.P.No.1974 of 2023

R.Jaya .. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 9.

2.The State of Tamil Nadu rep. By the
Commissioner of Police,
Greater Chennai,
Office of the Commissioner of Police
(Goondas Section), Vepery, Chennai - 7.

3.The Superintendent,
Central Prison, Puzhal, Chennai - 66.

4.The Inspector of Police,
E-4 Abiramapuram Police Station,
Chennai - 28.

.. Respondents

Petition filed under Article 226 of The Constitution of India
praying for a Writ of Habeas Corpus to call for the entire records
relating to the impugned order of detention passed by the second
respondent in Memo No.217/BCDFGISSSV/2023 dated 08.06.2023
and set aside the same and consequently direct the respondents to



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produce the detenu Loganathan @ Logu, petitioner's son now confined at Central Prison, Puzhal before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Thiyagaraj

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind

ORDER

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

The petitioner, mother of the detenu Loganathan @ Logu, has come forward with this petition challenging the detention order passed by the second respondent dated 08.06.2023 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.



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3. Though several points have been raised by the petitioner, the learned counsel for the petitioner submitted that the Mahazar and Form 91 furnished to the detenu in the booklet in the vernacular language are illegible and could not be read. Hence, it is stated that the detention order is liable to be quashed on the ground of non-furnishing of legible copy of the vital document, depriving the detenu of his valuable right to make effective representation against the detention order to the authorities concerned.

4. This Court, upon examination of the Booklet, is unable to discard the contention of the learned counsel for the petitioner. It is seen from the Booklet furnished to the detenu, Form - 91 in the vernacular language, is not clear and the said document is illegible. Furnishing illegible copy of the document would deprive the detenu of his valuable right to make 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



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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 detenu 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



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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.

.....

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 detenu be set free forthwith unless she is required to be detained in any other case. The appeal is accordingly allowed."*

6. In view of the ratio laid down by the Hon'ble Supreme Court and in view of the aforesaid facts, this Court is of the view that the detention order is liable to be quashed.



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7. In view of the aforesaid reason, the detention order passed by the second respondent dated 08.06.2023 in BCDFGISSSV No.217/2023, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Loganathan @ Logu, S/o.Rajendiran, aged about 23 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.]
24.11.2023

Index:Yes/No
Neutral Citation:Yes/No
mmi

To

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- 5.The Public Prosecutor
High Court, Madras.



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**S.S.SUNDAR, J.,
AND
SUNDER MOHAN, J.,**

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