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H.C.P.No.2035 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

H.C.P.No.2035 of 2023

Mrs.Divya
W/o Jagadesh

..

Petitioner

v.

1. The Secretary to the Government
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009

2. District Magistrate and District Collector
Tiruvallur, Tiruvallur District

3. The Superintendent of Police
Tiruvallur, Tiruvallur District

4. The Superintendent
Central Prison, Puzhal
Chennai District

5. State rep by The Inspector of Police
Kanakammachatram Police Station
Tiruvallur District

..

Respondents



H.C.P.No.2035 of 2023

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus, call for the records in connection with the order of detention passed by the 2nd respondent dated 26.07.2023 in B.C.D.F.G.I.S.S.S.V.No.21/2023 against the petitioner's husband Jagadesh @ Dollu, M/A, 21 years, Son of Velu, who is confined at Central Prison, Puzhal, Chennai and set aside the same and consequently direct the respondents to produce the detenu before the Hon'ble Court and set him at liberty.

For Petitioner :: Mr.A.Saranraj

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, Jagadesh @ Dollu, aged 21 years, S/o Velu, has come forward with this petition challenging the detention order passed by the 2nd respondent dated 26.07.2023 slapped on her husband, 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).



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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 writ petition, learned counsel appearing for the petitioner pointed out the detention order is liable to be quashed on the sole ground that the bail order relied upon by the detaining authority in similar case, is not legible. Similarly, the translation of the remand extension order is also not furnished to the detenu. Therefore, the non-supply of the above documents vitiates the detention order.

4. On perusal of the records, this Court also finds that the bail order relied upon by the detaining authority in similar case while passing the order of detention, is not legible. That apart, the translated version of the remand extension order is also not furnished to the detenu, which has deprived the detenu of an opportunity to make an effective representation. The above issue is no longer res integra, as the Hon'ble Supreme Court in the case of *Powanammal Vs. State of Tamil Nadu* reported in (1999) 2



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SCC 413 has held 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 tune with the judgment of the Hon'ble Supreme Court, this Court finds that the impugned order of detention is vitiated.

5. Accordingly, the detention order passed by the 2nd respondent dated 26.07.2023 in B.C.D.F.G.I.S.S.S.V. No.21/2023 is hereby set aside and the



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habeas corpus petition is allowed. The detenu viz., Jagadesh @ Dollu, S/o Velu, aged 21 years, is directed to be set at liberty forthwith, unless he is required in connection with any other case.

Index : yes/no

(S.S.S.R.,J.)

(S.M.,J.)

Neutral citation : yes/no

15.12.2023

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To

1. The Secretary to Government
Home, Prohibition and Excise Department
Fort St.George, Chennai 600 009
2. The District Magistrate and District Collector
Tiruvallur, Tiruvallur District
3. The Superintendent of Police
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6. The Public Prosecutor
High Court, Madras



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